

COUNCIL MEETING

FEBRUARY 26, 2014

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Jay Furfaro, at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, February 26, 2014 at 9:04 a.m.

Chair Furfaro: A couple of housekeeping notes, I issued an order of the day as far as my plans to take several items up in the afternoon. I also have a situation where I will be departing at 5:30 p.m. today as well. So, I do want to make sure that was announced accordingly. First, I would like to do today's meeting with a start by having a roll call vote.

The following members answered the call of the roll:

Honorable Tim Bynum (*present at 9:07 a.m.*)

Honorable Mason K. Chock, Sr.

Honorable Gary L. Hooser

Honorable Ross Kagawa

Honorable Mel Rapozo

Honorable JoAnn A. Yukimura (*excused 6:05 p.m. to 6:33 p.m.; excused at 6:43 p.m.*)

Honorable Jay Furfaro (*excused at 6:08 p.m.*)

Chair Furfaro: Make note that Mr. Bynum is in the building. May I have an approval of today's agenda?

APPROVAL OF AGENDA.

Ms. Yukimura moved for approval of the agenda as circulated, seconded by Mr. Chock, and unanimously carried (*Mr. Bynum was not present*).

Chair Furfaro: Let us go to a period of public comment.
Could you read that, please?

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Thank you. Is there anyone in the public that wishes to speak on any agenda item posted for today? This will be your chance, Mr. Mickens.

There being no objections, the rules were suspended.

GLENN MICKENS: Just a question of information if you would give it to me.

Chair Furfaro: Sure.

Mr. Mickens: Will ES-703 and ES-704 be at the end of the agenda or will you bring it up any earlier?

(Mr. Bynum as noted was present.)

Chair Furfaro: It looks like it is going to be about 1:40 p.m.

Mr. Mickens: 1:40 p.m.?

Chair Furfaro: That is my best guess.

Mr. Mickens: Sometimes there are attorneys that and have to catch a plane and I know you move it up. I just wanted to find out.

Chair Furfaro: No, actually I put out an order of the day based on the fact that we have three (3) conference calls today. So, it would be sometime in the afternoon.

Mr. Mickens: Okay. Thank you.

Chair Furfaro: That will not be noted other than just a query and not his time. Is there anyone who wants to speak under the Public Comment rule, Section (D)? No?

There being no one to provide public comment, the meeting proceeded as follows:

MINUTES of the following meetings of the Council:

January 16, 2014 Council Meeting
January 16, 2014 Public Hearing re: Bill No. 2513, Bill No. 2514, Bill No. 2515, Bill No. 2516, Bill No. 2517, Bill No. 2518, and Bill No. 2519
January 22, 2014 Special Council Meeting
January 29, 2014 Council Meeting
February 3, 2014 Special Council Meeting

Mr. Rapozo moved to approve the Minutes as circulated, seconded by Mr. Chock, and unanimously carried.

RICKY WATANABE, County Clerk: Chair, we also had a request to defer several items for today.

Chair Furfaro: Yes.

Mr. Watanabe: The items would be C 2014-58 on page 3, ES-707 on page 11, and Resolution No. 2014-04 on page 7.

Chair Furfaro: May I ask you to read those three (3) items again one (2) more time?

Mr. Watanabe:
Resolution No. 2014-04 on page 7.

C 2014-58 on page 3, ES-707 on page 11, and

There being no objections C 2014-58, Resolution No. 2014-04, and ES-707 were taken out of order.

COMMUNICATION:

C 2014-58 Communication (02/14/2014) from the County Attorney, requesting authorization to expend funds up to \$15,000 for Special Counsel's continued services provided for Defendant Chris Calio in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters.

RESOLUTION:

Resolution No. 2014-04 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION
(*Brandon H. Shimokawa – At-Large*)

EXECUTIVE SESSION:

ES-707 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92 5(a)(4) and (8), and Kauai County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. 13-00202 DKW-BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Rapozo:

Mr. Chair?

Chair Furfaro:

Go right ahead.

Mr. Rapozo: I did read the communication from Ms. Morikami regarding the Resolution for Mr. Shimokawa. I had raised some concern about the Charter Section, but since that time, I have spoken to quite a few veteran, former elected officials and appointed officials, and it seems that the rationale and I want to bring this out here before the attorney goes out and drafts an opinion, that the rationale was that because the County receives so much funding from the Federal government and the State government, that that was the intent of the Charter. Because Cost Control Commission was intended to reduce spending and cut programs, that the conflict or the inherent or potential conflict of interest between a person that works for the State or Federal government to sit on a Commission that was expected to cut programs, that was the reasoning and the rationale for that. I guess what I do not want to see is the County Attorney's opinion justifying this position for Mr. Shimokawa. I bring that up because we all want him on that Commission, but I think they need to understand what the rationale was and I am hoping they will do their due diligence, but I just wanted to put that on the record, that I know made statements last week that did not make sense. I stand corrected today. It does make sense because of the number, the high percentage of our budget that comes from government sources outside of the County. Thank you.

Chair Furfaro:

Understood your commentary. JoAnn?

Ms. Yukimura: I appreciate the research that Councilmember Rapozo has done and in fact, his calling out this provision in the Charter because we have to follow the Charter. As I am sure the County Attorney will tell us, the first rule is what does the plain language say? It is pretty plain, but maybe there is something that I have overlooked. So, I have no opposition to having them render their opinion, but I do not see any real rational nexus to not have a State or Federal employee not serve on the Cost Control Commission. So, I am developing a Charter Amendment. I do not think anything should be done just for a single person, but I think the issue is a policy issue that we need to address. I think that there are a lot of qualified State and Federal people who could serve well on the Cost Control Commission. I do not believe someone from the County operations itself should be serving because they would be reviewing their own situation. I think in terms of generally Federal and State, that there should not be any obstacle to them serving.

Chair Furfaro: So, your comments are well received, Mr. Rapozo, yours as well JoAnn, on the Charter Amendment, but as I understand it, the deferral is requested based on the fact that we are going to get a County Attorney opinion, we need a County Attorney opinion, and the rules of the Charter, that is the rule of the land. It does not apply to any individual or particular class or political subdivision. Those are our rules. So, I look forward to a legal interpretation at the convenience of the Cost Control Commission. Thank you so much. I have those three (3) items for deferral by request. Any further discussion before I ask for a vote on all three (3) deferrals at once? I need a motion.

Upon motion duly made by Mr. Chock, seconded by Ms. Yukimura, and unanimously carried, C 2014-58, Resolution No. 2014-04, and ES-707 were deferred.

Chair Furfaro:

To the Clerk, so note the deferrals requested.

CONSENT CALENDAR:

C 2014-47 Communication (01/30/2014) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Bradley M. Maruyama to the Fire Commission for the County of Kaua'i – Term ending 12/31/2015: Ms. Yukimura moved to receive C 2014-47 for the record, seconded by Mr. Bynum.

C 2014-48 Communication (02/04/2014) from the County Attorney, transmitting for Council consideration, proposed amendments to Ordinance No. B-2013-753, as amended, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2013-2014, by Revising the Amounts Estimated in the General Fund. (*Office of the County Attorney, Special Counsel - \$75,000*): Ms. Yukimura moved to receive C 2014-48 for the record, seconded by Mr. Bynum.

C 2014-49 Communication (02/10/2014) from the County Auditor, transmitting for Council information, N&K CPAs, Inc.'s Independent Auditor's Report on Applying Agreed-Upon Procedure and the County of Kaua'i's Housing Agency Financial Data Schedule for the Fiscal Year ended June 30, 2013: Ms. Yukimura moved to receive C 2014-49 for the record, seconded by Mr. Bynum.

C 2014-50 Communication (02/20/2014) from Councilmember Yukimura, transmitting for Council consideration and approval, a Resolution Acknowledging the Necessity to Expedite Permit Processing for Workforce Housing: Ms. Yukimura moved to receive C 2014-50 for the record, seconded by Mr. Bynum.

Mr. Rapozo:

Mr. Chair?

Chair Furfaro:

Yes. Discussion?

Mr. Rapozo: One (1) more request on item C 2014-48, the proposed Bill for seventy-five thousand dollars (\$75,000) for the County Attorney. Last week we were here approving, I believe, five hundred thousand dollars (\$500,000) for the County Attorney's Office and I think several of us had questions as to what it was for. There is no breakdown. I realize this is a First Reading Bill, but I thought the message had been received last week that they need to provide us with more information other than to cover shortfalls. I mean, I am not prepared to support the First Reading Bill if we do not have that. They have some time to put together a spreadsheet of what the shortfalls are. Again, this body really scrutinizes requests for funding from the other Departments. I think that the County Attorney should be treated the same way, to continuously ask week after week without any type of explanation for the public, I do not think that is fair. Thank you.

Chair Furfaro: I have raised that question about that amount and here is the response that I got. Basically, this first seventy-five thousand dollars (\$75,000) is in fact for the next four (4) months in our calendar for budget dates. In other words, from March until June. I then expressed the fact that as we go into budgets on March 28th, I would expect some further detail because then that money should be allocated appropriately in a budget with some expected costs associated with it. So, if it is going to be three hundred thousand dollars (\$300,000), we should have the details accordingly by the March 28th discussion when we being on the budget. I am going to ask the County Attorney to come up if he can for a moment so that we can get some acknowledgment as that is how it was explained to me by one of your Deputies. I would like to make sure that we are all understanding this is just the initial, but a full layout will be in the budget presentation.

There being no objections, the rules were suspended.

ALFRED B. CASTILLO, County Attorney: Good morning, Council Chair and Councilmembers. Al Castillo, County Attorney. Yes, sir?

Chair Furfaro: Al, you heard as it was explained to me and I want to make sure that I am going to reflect on our rules. So, if Mr. Rapozo is making a motion to take it off of the Consent Calendar, then in fact we move it as another item to discuss and then I should announce to people that they are allowed to give testimony just on that item. So, I want to make sure we understand the interpretation here to leave it on the Consent Calendar and it is based on the fact that this is only the initial four (4) month version of the spending versus you will be providing us detail in the March 28th budget schedules.

Mr. Castillo:

That is correct.

Chair Furfaro: Okay. Further questions for the County Attorney?

Mr. Rapozo: I have one (1).

Chair Furfaro: You have the floor.

Mr. Rapozo: I guess Al, maybe my question was not clear. Last week you requested five hundred thousand dollars (\$500,000) and I asked last week what was the reason and it was basically, we had some outstanding bills that we needed to pay. That dialogue went into were these outstanding bills approved by the Council and what I got back was that it was not. That in fact these were bills that were over and beyond than what we had already approved and we required more money, which obviously we have a concern about. That was just last week. This week we have another request for seventy-five thousand dollars (\$75,000), but the communication itself does not specify other than estimated shortfall. I guess for me, and again, in the spirit of being consistent with other Department Heads, where is that? Last week we also had a communication from the Chief of Police and he said it was for overtime. So, okay, it is for overtime, in this one, what is the shortfall and why?

Mr. Castillo: I have to apologize. I do not have all of that necessary information for you right now. However, what I can tell you is my understanding is that this seventy-five thousand dollars (\$75,000) that we are requesting is basically to cover Ordinance No. 960 also known as Bill No. 2491, Draft 2, defense. So, that is what my understanding of this seventy-five thousand dollars (\$75,000) is. Like I said, I am not the one in charge of the breakdown. I can get that information for you, but I am thinking...

Mr. Rapozo: Who is in charge, Al?

Mr. Castillo: No. I am thinking we are going to come with a Money Bill and this is what this is about. This is about funding the...

Mr. Rapozo: Okay...

Mr. Castillo: Because specifically, I can only tell you what my understanding is, that this seventy-five thousand dollars (\$75,000) is to fund the initial costs for Special Counsel in defense of Ordinance No. 960.

Mr. Rapozo: So, why would that not, Al – I am sorry Mr. Chair. Why would that not have been on the agenda? Because I think the public has the right to know in every other Executive Session, every other request for funds, there is always a case tied to it. This one says unexpected shortfall, which is not Bill No. 2491, Draft 2. Unexpected shortfall to me, is we are running out of money. Again, in the spirit of Office of Information Practices (OIP), Sunshine Law, I believe if that in fact the reason for the funding request, that should be posted. I do not know.

Chair Furfaro: Excuse me, Al. Let me get some clarification here for the whole purpose. Bill No. 2491, Draft 2 will require the County of Kaua'i to prepare a defense.

Mr. Castillo: That is correct.

Chair Furfaro: Is that correct?

Mr. Castillo: That is correct.

Chair Furfaro: Okay, there is no narrative to that effect. Bill No. 2491, Draft 2 will require the County to prepare a defense of which at this time, you have not made a final selection of attorneys or at least the Council is not informed.

Mr. Castillo: As soon as there is an award, then we can notify you who has been awarded that contract. To me, that is soon.

Chair Furfaro: So, what I am saying, I think Mr. Rapozo's questions are along the line where we are still in the process of selecting a legal firm to defend the County.

Mr. Castillo: That is correct.

Chair Furfaro: You are anticipating that you are going to make a selection soon of which the Council has not been informed of...

Mr. Castillo: Yet.

Chair Furfaro: And what you want to be able to do is because you have exceeded your budget, you wanted to be able to know that you had money in there for this next four (4) months of this. Is that the way it is?

Mr. Castillo: That is correct.

Chair Furfaro: Well, you have to communicate that. It is not communicated, is Mr. Rapozo's point. You have to communicate that to us.

Mr. Castillo: Okay.

Chair Furfaro: Now, I am just putting one (1) plus one (1) plus one (1) together to understand that. Math is also logic. So, I am assuming that is the logic behind this. We are going to either approve this on the Consent Calendar or we are going to move it off of the Consent Calendar, but if we move it off the Consent Calendar I want to make sure we are prepared to have that discussion. Is your office prepared to have the discussion?

Mr. Castillo: I will check.

Chair Furfaro: Mr. Hooser, you have the floor.

Mr. Hooser: Just a clarification. I do not have the last agendas that we worked on, but I recall we had a seventy-five thousand dollars (\$75,000) item that had the Syngenta case identified in it and I thought we dealt with that already. Am I mistaken or was this...maybe staff can...

Chair Furfaro: No, no. I am going to direct that. I want to see if the County Attorney can answer that question because in your office, even though I disagree with the Director of Finance who his chief responsibility is to

oversee all the County's financial business, is that your understating before I am going to refer to the Clerk?

Mr. Castillo: My understanding is we are going through a two-step process. The first step was to engage the Council in our request for Special Counsel to defend Ordinance No. 960. So, we go that authorization. The second step towards that process, and yes, we do not have funding. So, that is the reason for the request for this seventy-five thousand dollars (\$75,000), to be able to fund that. That is my understanding. As far as the communications back and forth with Council, I can go and get that information of how this occurred.

Chair Furfaro: Let me see if the Clerk can respond to this. Mr. Clerk, the question posed, I have summarized Mr. Rapozo's as I think it is and then Mr. Hooser raised the other question about the previously approved seventy-five thousand dollars (\$75,000). Can you enlighten us?

Mr. Watanabe: Council Chair, we need to double check on the Bill.

Mr. Rapozo: Mr. Chair, I had asked the staff and our staff was very quick. It was approved...

Chair Furfaro: I understand what the staff is doing and I have the floor. If I want to hear from the Clerk, I want to hear a clear answer. Did it go through second reading? This was Jenelle's project?

Mr. Watanabe: Yes.

Chair Furfaro: While we research that question, I am going to give the floor to JoAnn. JoAnn.

Ms. Yukimura: Thank you. I think when we approved the seventy-five thousand dollars (\$75,000) we assumed that the County Attorney had that in his funds because that is usually what they do. They draw from a large fund, you said about five hundred thousand dollars (\$500,000), and then we just authorize expenditures for specific cases, but I do not believe that we were told that this was outside of the five hundred thousand dollars (\$500,000) that is allocated for Special Counsel. So, if we authorized money that was not there, that is why we have to replenish it, the fund from someplace else. Is that the situation?

Mr. Castillo: Let me give it...

Chair Furfaro: Excuse me, Al. I am going to give us the situation, okay? I do this part-time following this. Here is the budget issue for the County Attorney's Office. In previous years, JoAnn, you are correct. We allocated one million dollars (\$1,000,000) for Special Counsel Services. Two (2) years ago, the Administration cut that number down to seven hundred fifty thousand dollars (\$750,000), okay, and you did not make it. We had to give other moneys. This year, for this Operating Budget, we asked that question and you cut the number down again to five hundred thousand dollars (\$500,000) and you have exceeded that again. So, what happens over here? You are not giving us realistic numbers from a budget standpoint, numbers that basically reflect an amount you can live with. I am sorry to be so blunt, Al, but your Special Counsel number has been exhausted and it was reduced. So, the reality here is we have not had any savings. We are

still running about one million dollars (\$1,000,000), but the way we are running at it is you keep coming back to increase the allocation because we cut the budget to a number that was not realistic. My opinion.

Mr. Castillo: So, can I please respond to Councilmember Yukimura's and your reply?

Chair Furfaro: Go right ahead.

Mr. Castillo: I welcome, Chair, you being blunt about the situation because it is the duty of me and my office to vigorously defend this County. I agree with you about the amounts that were placed in our budget and I agree with you totally that the amounts were not sufficient to defend this County. Quite frankly, yes, the budget was a shortfall and the process is that we come to you and we justify the special necessity to employ Special Counsel and that is done in Executive Session. We explained to you why and you either authorize or do not authorize it. When we do not have moneys in...that budget, it is really not the County Attorney's budget. It is a budget set aside for Special Counsel, but it can be named elsewhere, a budget to defend to County. If there was such a budget to defend the County, what we do normally is we go and find more money to defend the County and this is one of the processes we do. I welcome you being blunt and I agree with the position that we are in. We are trying to do the best we can.

Chair Furfaro: Okay. I have always been blunt, Al. I mean, we do not even get the narrative that can support what I just said. I know that because every month I think I am the one (1) Councilmember here that actually looks at our cash flow position, actually looks at the profit and loss picture.

Mr. Castillo: I am sorry that – I was asked personally and another Deputy of ours, to not participate anymore in matters involving Bill No. 2491, Draft 2, and I am at a real disadvantage here because do not know what happened in the Executive Session of Bill No. 2491, Draft 2. I do not know what was explained to all of you at that time. I will go find out and in the future, what I will do is I will make sure that we are more comprehensive in our narrative to all of you as to why there are special circumstances that necessitate the employment of Special Counsel. That I can do.

Chair Furfaro: Okay. Enough has been said on this subject.

Mr. Castillo: Thank you.

Chair Furfaro: The piece that is front of us right now is if we are going to leave this in the Consent Calendar format. If we take it out of the Consent Calendar, we can have additional dialogue and the Clerk can do his review. JoAnn.

Ms. Yukimura: Because this is just the cover letter, we could actually receive it and it is the Bill that we need to deal with.

Chair Furfaro: Yes, that is what I am saying.

Ms. Yukimura: I mean, so we can continue our discussion on the Bill or if it is the discussion that we want to continue outside of the Consent

Calendar, then we would have to withhold it from the Consent Calendar while we act on the Consent Calendar, and then take it as a regular item.

Chair Furfaro: Have you said what you needed to say?

Ms. Yukimura: Yes.

Chair Furfaro: I need to recognize other Councilmembers.

Ms. Yukimura: Yes. Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: Right now there is a motion before us to move this off of the Consent Calendar?

Chair Furfaro: That is right. No, there is no motion. There is a query to move it off.

Mr. Bynum: I am on the record, I think, several times saying regarding this Consent Calendar, any member wants to move it off, I am in support that. So, I wanted to say that. For whatever reason, it is just...

Chair Furfaro: And that is the business in front of us right now.

Mr. Bynum: And I have a question for Al.

Chair Furfaro: Go ahead.

Mr. Bynum: Thank you for your response to the Chair. I agree with his analysis of what budgetary the set aside for Special Counsel has gone down and you have no choice but to come here and exceed it. I do not disagree with the dialogue that as much detail as you can provide the public as possible is a good thing and I also recognize it with Bill No. 2491, Draft 2. My question is, the County Attorney's Office has no control over who would bring suit against the County and for what reason, correct?

Mr. Castillo: That is correct.

Mr. Bynum: So, this is impacted by how many suits we get and the County Attorney's Office has no control over that, correct?

Mr. Castillo: That is correct.

Mr. Bynum: It is also impacted by decisions that this Council makes about proceeding in existing cases because those decisions can incur additional costs or not, correct?

Mr. Castillo: That is correct.

Mr. Bynum: So, I just wanted to say that on the record that I agree with the Chair's analysis and the concerns of other members that we provide as much detail as possible to the public. I also want to point out the concern

that the County Attorney's Office has no control over how much is needed to defend the County.

Chair Furfaro: And let us stop right there.

Mr. Bynum: And I am done.

Chair Furfaro: No.

Mr. Bynum: We can stop right there.

Chair Furfaro: I want to act on if we are going to leave this on the Consent Calendar or not because we will have further discussion whatever that outcome is. Mr. Rapozo.

Mr. Rapozo moved to remove C 2014-48 from the Consent Calendar, seconded by Mr. Bynum.

Chair Furfaro: We have a motion and a second to remove this item from the Consent Calendar. Further discussion?

The motion to remove C 2014-48 from the Consent Calendar was then put, and unanimously carried.

Chair Furfaro: The item is going back on the regular calendar, Al. I wanted to say something, not just for you, but all of the Department Heads that are here. We need to get very serious about the roadmap called the budget. Okay? If there are things that are anticipated, then they should be planned and budgeted for. If there are items that are challenging us, we approve extra money in the year for the year, but this is our third consecutive year that we have not hit that budget number. So, what is happening, you are in a position where you are overpromising and under delivering because you do not have the money. That is not what budgets are for. They are not meant to scare people. They are meant to tell us this is the roadmap of where we need to get to.

Mr. Castillo: Chair.

Chair Furfaro: Yes.

Mr. Castillo: The one thing that you said, we view it in a different way.

Chair Furfaro: Okay, so you and I can disagree.

Mr. Castillo: That is right.

Chair Furfaro: You practice law, I know how to read a financial.

Mr. Castillo: Well, yes.

Chair Furfaro: I know how to read a financial. I have said what I have said and we agree to disagree. We are going to move on up on other

business. We have deferred this off of the Consent Calendar. We are onto other business.

There being no objections, the meeting was called back to order, and proceeded as follows:

To motion to receive C 2014-47, C 2014-49, and C 2014-50 for the record was then put, and unanimously carried.

Chair Furfaro: Thank you. You will be coming back, Jennifer. You will be coming back. Thank you. Thank you, Al.

Mr. Kagawa: I seconded it.

Chair Furfaro: Yes, it was seconded already. Okay, we are finished with the Consent Calendar.

COMMUNICATIONS:

C 2014-48 Communication (02/04/2014) from the County Attorney, transmitting for Council consideration, proposed amendments to Ordinance No. B-2013-753, as amended, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2013-2014, by Revising the Amounts Estimated in the General Fund. (*Office of the County Attorney, Special Counsel - \$75,000*)

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes.

Mr. Rapozo move to receive C 2014-48 for the record, seconded by Ms. Yukimura.

Mr. Rapozo: Mr. Chair, may I?

Chair Furfaro: I have a motion and a second from JoAnn. Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you. I think I asked a question about the information as a posting issue, not into the details of Bill No. 2491, Draft 2 or lawsuits. It was about the posting issue. The fact of the matter is that we approved seventy-five thousand dollars (\$75,000) prior to today.

Chair Furfaro: Yes, on February 12th.

Mr. Rapozo: Correct. We approved that. Today, we get a communication saying it is for a budget shortfall. That is what is on the posting. That is what the public sees. So, anyone that has anything to say about Bill No. 2491, Draft 2 or the defense of it or the support of it or whatever, would never know that this money is for Bill No. 2491, Draft 2 defense. We have already approved seventy-five thousand dollars (\$75,000). We were not told about an additional seventy-five thousand dollars (\$75,000). The public does not know about an additional seventy-five thousand dollars (\$75,000). The whole purpose of the agenda is for the transparency with the public so they know what we are going to be discussing. It is not for us to have an order of the day. It is for the public to know

what is going to be discussed so if they have any input, they can show up or submit testimony. Now, anybody in the public reading this communication would have no idea. They would think that we are just running short and yet we were told today on the record, that this is for continuing defense of Bill No. 2491, Draft 2, which in my mind, makes the allocation now, one hundred fifty thousand dollars (\$150,000). Now, I do not know why it was done this way. The same thing happened last week. I am curious to know what the heck we approved the five hundred thousand dollars (\$500,000) for last week, in detail. I asked for that. I have not received anything. But this has to be fixed. I would assume this is even a violation of...

Chair Furfaro: Mr. Rapozo, I spoke on that earlier when I said to the County Attorney, because the public also needs to know that these items are posted and defined for Executive Session by the County Attorney's Office. They left us very short on an explanation on that money and you are correct. They left us very short.

Mr. Rapozo: Mr. Chair, there is no even Executive Session item today for seventy-five thousand dollars (\$75,000).

Chair Furfaro: And that was my message to the County Attorney.

Mr. Rapozo: So, I would assume that, and we can have staff check, that if that is in fact the purpose of this money that the Sunshine Law is I think, violated. How can we do this? I guess this is a concern because it is not the first time. This is not the first time. This has happened last week. It has happened in the past, where historically every request came over for money was either tied to case or tied to a specific reason and we do not have that. I am bothered as you can tell and the public should know this. I appreciate the discussion in open session, but how do we fix this?

Chair Furfaro: Well, the way we do it is we just receive this right now, the people that are here, and then it gets reposted so people can give public testimony.

Mr. Rapozo: Well, I agree. They can give public testimony today, but what you are saying is repost it?

Chair Furfaro: That is right.

Mr. Rapozo: And that was the whole purpose of my novel – last week, for the First Reading Bill because I think until we as a Council say, enough, we are going to exercise our authority. You cannot continue to come here and request for money, request for money, and request for money, hide it under the guides of a budget shortfall when they know that there is a purpose. Of an issue of such magnitude of Bill No. 2491, Draft 2, I am hoping this was not intentional. Thank you.

Chair Furfaro: I am hoping it was not intentional as well, but Mr. Rapozo, I want to say if you have to recap what I have already said, and I have said this over the last three (3) years, the County Attorney keeps reducing their budget and it is not a livable budget. That is problem number one. They said from one million dollars (\$1,000,000) they went to seven hundred fifty thousand dollars (\$750,000) and from seven hundred fifty thousand dollars (\$750,000) they

went to five hundred thousand dollars (\$500,000). That is where it has to be fixed in the budget system on March 28th. Secondly, this has been taken off of the Consent Calendar. It has been moved to receive here. It will be reposted with more information. For the purpose of posting, it was posted today and people wish to give testimony, we need to take that testimony, but it needs to be further disclosed for the intent of the money, which will trigger a new posting. Mr. Hooser.

Mr. Hooser: Yes. It is unfortunate that we are at where we are at today. I do not see this as a Bill No. 2491, Draft 2 issue or Ordinance No. 960 issue. It is just a budgeting issue. I believe Councilmember Yukimura might have said this earlier, we approved seventy-five thousand dollars (\$75,000), but apparently there is not seventy-five thousand dollars (\$75,000) in the account and therefore, we had to have this Money Bill to put the seventy-five thousand dollars (\$75,000) in the account. So, I am assuming – and you know what they say about assuming, that that is the case and that it is not a duplication. It could be associated with any project actually. It was just a seventy-five thousand dollars (\$75,000) shortfall and why this was not put into the five hundred thousand dollars (\$500,000) when we approved that, I do not know. I think that therein lies the problem. It has nothing to do with involvement of Bill No. 2491, Draft 2. It is a budget issue and it should have been handled differently, but that is where we are at right now.

Chair Furfaro: So, you agree with me as well, that it starts as a budget issue, there is no money in the checkbook?

Mr. Hooser: Right.

Chair Furfaro: I think they call that a bounced check.

Mr. Hooser: Exactly. I think in retrospect, if we would have had five hundred seventy-five thousand dollars (\$575,000) in the Money Bill...

Chair Furfaro: It would be a different story.

Mr. Hooser: ...and then we went forward, it would be different. Yes. Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: No, I pass for now. Sorry.

Chair Furfaro: So, what I am going to do is I am going to see, since we are receiving this, to take testimony and then if not, we are going to repost this for further discussion. Yes, your microphone is off.

Mr. Bynum: I just want to be clear that we moved the communication to the regular calendar and that is what we are talking about.

Chair Furfaro: And that is what we are receiving.

Mr. Bynum: And there is a motion to receive?

Chair Furfaro: Yes.

Mr. Bynum: And we are about to take public testimony?

Chair Furfaro: The rules require us to take public testimony, but my intent as Chair, is to repost it.

Mr. Bynum: Okay, that works great for me.

Chair Furfaro: Okay.

Mr. Bynum: I want to request a five (5) minute recess.

Chair Furfaro: Sure. We are going to take a ten (10) minutes recess if we can here and then we can start off with going two (2) hours without any interruptions. We are on a ten (10) minute recess.

There being no objections, the Council recessed at 9:42 a.m.

There being no objections, the meeting was called back to order at 9:55 a.m., and proceeded as follows:

Chair Furfaro: We are back from the recess. Before we went into recess, Mr. Bynum, you had the floor. So, you have the floor again.

Mr. Bynum: Okay. Thank you, Chair. I would like for a moment of personal privilege. That elephant in the room is the lawsuit I brought against the County. It was dismissed in Federal Court, Monday. I believe, because I read this written public testimony, that that is going to be a source of discussion right now. I choose not to engage in that discussion, as I have chosen not to for a long time. When I filed this suit, I posted it on the web at TimBynum.com and I posted a personal statement, which I stand by, and I have made no public statement since despite other parties in the case going to the public form dozens and dozens of times to disparage my character. I choose not to respond. The case was dismissed in Federal Court. We were preparing for a kind of showdown in the case with the County's motions to dismiss, and the insurance company got involved and suddenly before those motions much to my surprise, the County was moving to settle the case. I wanted to do that too, and we reached a settlement with all parties involved except Ms. Iseri-Carvalho in her private capacity. She petitioned the court to keep the case alive. There are plenty of written documents about her petition including the Judge's response to her petition, which was published on the Federal Register and I know was available on Monday afternoon.

Mr. Rapozo: Mr. Chair, I think...hang on. I will make a point of order, Mr. Chair.

Chair Furfaro: Point of order, and give me the Rule that you are referring to.

Mr. Rapozo: The Rule is the item on the agenda today is regarding this case. Mr. Bynum is recused from this case, and I believe to utilize a personal privilege to get comments in on a matter that he is recused from is extremely troubling. A personal privilege is not used to circumvent the agenda, Mr. Chair, and that is what is appearing to happen here and I do not want to go through a dialogue of this during a personal privilege. Again, it is on the agenda,

Mr. Bynum is recused. I do not believe he should be allowed to make any comments pertaining to this case in the open session. Thank you.

Chair Furfaro: Okay.

Mr. Bynum: Mr. Rapozo...

Mr. Rapozo: The point was made to the Chair.

Chair Furfaro: Excuse me, the point was made to me. May I consult with the County Attorney, may I consult with Peter and the Clerk?

Mr. Bynum: May I just respond briefly?

Mr. Rapozo: Mr. Chair, until the point is...

Mr. Bynum: I will be done in less than a minute.

Chair Furfaro: No. No.

Mr. Rapozo: Mr. Chair.

Chair Furfaro: No, you have to let me clear the point of order.

Mr. Bynum: Okay, fine. I am fine with that.

Chair Furfaro: We are in recess.

There being no objections, the Council recessed at 9:58 a.m.

There being no objections, the meeting was called back to order at 10:15 a.m., and proceeded as follows:

Chair Furfaro: I am going to call this meeting back to order. I do want to indicate that I have been able to have some time to consult with the attorneys and the consultation with the attorneys as it relates to our Rules. As it relates to the use of personal privileges and subsequently the interpretation of our Rules with Mr. Bynum being recused from other agenda items that are posted for today, I will ask him to refrain from touching on any discussion that references those items. Mr. Bynum, you have the floor.

Mr. Bynum: I also had the opportunity to speak with attorneys and the Chair, and I am not going to dispute your judgment on this, but I do want to announce that for personal choice reasons, I am not going to participate further in this budget item or other ones related to my case, which I believe is done. I do not believe that is a recusal. It is a personal choice. With that, I am going to exit the meeting, but I will be here for other agenda items. Thank you.

(Mr. Bynum was noted as not present.)

Chair Furfaro: Okay. Mr. Clerk, so note that when we broke for the first recess, I had given Mr. Bynum the floor and when we came back I gave him the floor. He wanted to use it as so stated as a personal privilege. I have

made an interpretation of the rules in consultation with the County Attorneys, so, the item we were discussing was the item to be received.

Mr. Watanabe: Yes.

Chair Furfaro: And I would like to continue that with any discussion by other members on the item to receive.

Mr. Watanabe: We had members of the public signed up to speak on this item.

Chair Furfaro: Okay. So, that is what we want to do next. No further discussion from other members. I am going to take public comment on the item to receive.

Mr. Watanabe: The first speaker that signed up on C 2014-48 is Shaylene Iseri.

There being no objections, the rules were suspended to take public testimony.

SHAYLENE ISERI: Good morning, Shaylene Iseri, members of the County Council, Chair, and Vice Chair Chock. This item is similar to an item that was posted last week where I raised huge red flags about wasted resources and in fact, the amounts that were posted last week was five hundred thousand dollars (\$500,000). Half a million dollars (\$500,000) with absolutely no explanation as to who this money was going to, where it was going to be spent, what type of services were going to be performed whether it is investigative services or attorney's fees, and/or whether it was going to be used for sanctions. This County just received, the County Attorney's Office, was just ordered sanctions in another Federal case. Regarding what is posted on the agenda, it was not clear if the County Attorney was going to be using this money because of its incompetence of being sanctioned in Federal Court. The "who," "what," "where," "when" this money had been expended or was going to be expended. I mean, no one could actually write a check, any member of the community would not be able to write a check because there was inadequate detail. I have the Open Meeting Sunshine Law Part I of Chapter 92, Hawai'i Revised Statutes and it clearly says that the agenda must list all of the business to be considered at the board meeting and it must be sufficiently detailed to provide the public with adequate notice of the matters that the board will consider so that the public can choose whether to participate. It is very clear from the discussions that one, the sufficiency of the posting was inadequate as there were numerous questions that were even raised by the Councilmembers. I know last week there was some indication that there was some discussions between the parties and members of the Council. Well, that is not the purpose of the agenda. The agenda is for the purpose of posting for the public, not only for the Councilmembers to know what is going on. Some serious distrust issues with the County Attorney's Office. There appears to be some manipulation of the agenda in trying to get numerous amount of moneys. Like I said, five hundred thousand dollars (\$500,000) last week and then seventy-five thousand dollars (\$75,000) with absolutely no explanation. There also seems to be that the checks and balances system that is in place, appears to be flawed because the agenda is prepared, especially the request from the County Attorney's Office, it comes here for review by the Chair and the rest of the members, the staff reviews them, we have a total of on any given day, ten (10) people employed by the County that is present that reviews the agenda. We spend an inordinate amount of time wasting of resources with

Ho'ike being televised on an item that nobody knew absolutely nothing about. I think that has to be a gate, a gatekeeper, that if these items are not prepared appropriately, that it would stop there so that none of our resources and our time in spending here. We have numerous people in the audience waiting to testify and that we are caught up on this item that is clearly a disservice to the taxpayers. This is not a place where we do our homework. This is where we do...

Chair Furfaro:

Is that three (3) minutes?

Ms. Iseri: This is where we do our final exam and so I would ask that the County Council exert its checks and balances power to ensure that items of this lacking is not posted. I did file a complaint with the Office of Information Practices (OIP). Jennifer Brooks is working on an opinion, which she was not able to prepare it for today. She asked that I file another complaint regarding today's agenda item. So, hopefully, we will have something from OIP soon so that they can adequately inform the Councilmembers as to not only the sufficiency of the posting, but also not even getting into the merits of the request as to how this money is going to be spent. This is shocking that Bill No. 2491, Draft 2 was even mentioned, that that was the money that was going to be spent because clearly, we had that agenda item last week Friday. So, it brought even more distrust and confusion for us members sitting in the audience as to why none of this information was provided and in fact, again, I would ask this Council to exert the power that it has over the checks and balances systems and ensure that this kind of items do not waste anymore of the moneys and resources of our people.

Chair Furfaro:

Thank you.

Ms. Iseri:

Thank you.

Chair Furfaro:

JoAnn, you have a question?

Ms. Yukimura:

Yes. Hi, Shay.

Ms. Iseri:

Hi.

Ms. Yukimura: This thing is sort of unfolding in my mind as the discussion proceeds, but it may be that that five hundred thousand dollars (\$500,000) is like the first five hundred thousand dollars (\$500,000) that we put in the budget for Special Counsel needs for the whole year and we do not know specifically what it is going to be for, but we do appropriate on a case-by-case basis. So, it may be that...

Ms. Iseri:

JoAnn, your question...

Chair Furfaro:
JoAnn, has the floor.

Excuse me. You do not have the floor.

Ms. Iseri:

Okay. If I could respond?

Ms. Yukimura: Yes. So, if it is that situation, there may not be a line item for expenditure of the full five hundred thousand dollars (\$500,000), would you not think?

Ms. Iseri: I mean, I think your question speaks directly to the issue. It may be. We do not know, and that is the whole purpose of having a sufficient detailed agenda item. You do not know, I do not know, nobody here knows. That is the whole purpose of why we have these rules for openness and transparency. I cannot participate in the meeting not knowing what it is and clearly, you do not know either.

Ms. Yukimura: Right. So, it would be like a Special Counsel Fund and that should be made clear. I agree. Thank you.

Chair Furfaro: Thank you, Shay.

Mr. Rapozo: I have one (1) question.

Chair Furfaro: Go ahead.

Mr. Rapozo: You mention a sanction. What was that?

Ms. Iseri: Last week on December 19th, the County Attorney's Office was sanctioned in the Federal case involving Ernest Pasion for filing a frivolous motion or one that was not objectively reasonable, and the court has tried to – actually, the plaintiffs in that case had tried to negotiate with the County to ensure that the item was remanded back to State court because in that case, the County Attorneys had moved to remand the case to Federal court, which was totally against the case law that was presented. There is a case that was clearly on point that prohibited the actions of the County Attorney from taking and therefore, the court ordered the County Attorney to pay sanctions. Now, I am raising this in another issue, but clearly, moneys – and we cannot tell from this agenda item, whether these items are going to be paid from these type of funding. I do not know. I cannot tell from the agenda.

Mr. Rapozo: Is that sanction, is that a public...

Ms. Iseri: That is a public document.

Ms. Yukimura: It is attorney's fees. I do not know if you call that sanction.

Ms. Iseri: A sanction is, yes. That is a sanction for attorney's fees and costs of...

Mr. Rapozo: Does it state how much that is?

Ms. Iseri: They are submitting bills by this week, I believe.

Ms. Yukimura: I do not think so, Mel. It is in our book actually.

Mr. Rapozo: The sanction?

Ms. Iseri: So, it depends...

Mr. Rapozo: Oh, okay.

Ms. Iseri: So, it depends on how much the attorney had to pay, but also the County is at a loss because its resources utilized by the County Attorney for the time in preparing and researching that matter, which there was case law that was brought to the attention of the County Attorney and the Special Counsel. There was case law clearly on point that was in opposition to the position taken from the County. The plaintiff's attorney had tried on numerous occasions...

Chair Furfaro: Excuse me, Shay, that agenda item in the court is not on today's agenda item. Your point was taken about certain discrepancies, but that case is not the discussion point now.

Mr. Rapozo: When we get to that item Mr. Chair, I will have those questions for the County Attorney's Office when we get to that item at a later time. Thank you.

Chair Furfaro: Any more questions for Shay? Thank you, Shay.

Ms. Iseri: Thank you.

Chair Furfaro: Shay, just a reminder, I do intend and I hope you heard me earlier for everybody, this item will be reposted with an expanded explanation.

Ms. Iseri: Thank you, and appreciate that.

Chair Furfaro: So, there will be public ability to comment.

Ms. Iseri: Thank you.

Chair Furfaro: Glenn, are you wanting to speak?

Mr. Mickens: For the record, Glenn Mickens. Thank you, Jay. Thank you, BC. If I understood, Chair, your dialogue about the amount of money that the County Attorney's Office, they come in with a budget. I thought you said something like one million dollars (\$1,000,000).

Chair Furfaro: Yes.

Mr. Mickens: They have cut their budget down to seven hundred fifty thousand dollars (\$750,000) or whatever the figure was and now it is down to five hundred thousand dollars (\$500,000). Well, from a public standpoint, it appears that this is deception then because now as you pointed out, they come back in here and ask for a Money Bill. The public has seen their budget, but they do now know what that seventy-five thousand dollars (\$75,000) or another one hundred fifty thousand dollar (\$150,000) or five hundred thousand dollars (\$500,000) is. So, is that not basically deceiving, by not putting the real amount in the budget? Is that what you were pointing out, Jay?

Chair Furfaro: No, they are two (2) different things, Glenn, and that is what I was trying to point out to the County Attorney. You are required to give us the best estimate on a budget you can. That is why it is a budget. It is a forecast, but unfortunately, you cannot always forecast the activities that happen in

a year, but I am saying that it would be better that we had ended up with leaving some kind of a surplus to carry over, then to cut it too thin.

Mr. Mickens: Right.

Chair Furfaro: So, it is a forecasting thing. It is a budget piece. Now, on the seventy-five thousand dollars (\$75,000), we are going to repost that so that the public will have an opportunity to give more testimony in two (2) weeks. So, we will get more narrative in the posting.

Mr. Mickens: But as you are pointing out the way I hear it, would have been better to leave it at one million dollars (\$1,000,000) instead of saying we have cut, we have cut, we have cut down to the five hundred thousand dollars (\$500,000) level and then have to come back to you folks and say we need a Money Bill to go back up on the thing? Would it not have been better to leave it up? Like you said, I am sure in certain cases they do not know exactly what it is going to cost. So, it would cost more, but to make the public believe that they are really slashing their budget from one million dollars (\$1,000,000) down to five hundred thousand dollars (\$500,000), I just think there is something a little deceptive about that. That is all.

Chair Furfaro: Well, you choose you use word "deceptive," I choose the word "forecast," and they need to do a better forecast. I would agree with doing a better forecast.

Mr. Mickens: Okay.

Chair Furfaro: I would not go as far as you just did, Glenn, with deception.

Mr. Mickens: Okay.

Chair Furfaro: They need to do a better forecast.

Mr. Mickens: Forecast, okay. Well, I agree with that. Thank you, Jay.

Chair Furfaro: Any more subject matter on this?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Okay, we have a motion to receive, and I do plan to repost this with an expanded definition in two (2) weeks.

The motion to receive C 2014-48 for the record, was then put, and unanimously carried (*Mr. Bynum was not present*).

Chair Furfaro: Moving right along.

Mr. Watanabe: Okay.

Chair Furfaro: Hold on a second, Mr. Kagawa had the floor.

Mr. Kagawa: Chair, if I can make a request that we take the item for the Historical Society because they were waiting and I would like to at least, well, they are not here, but we can give them the word that it actually has been approved.

Chair Furfaro: I am sure they went down to the office. So, we will have one (1) more item and then we will take up the Historical Society. Would somebody send a message if they are down in the office, that we will be ready for them? Next item, please.

C 2014-51 Communication (01/31/2014) from the County Engineer, transmitting for Council consideration and approval, the project data and location maps of the proposed collector roads in the Resurface Collector Roads project, that includes: Haua'ala Road (from Kūhiō Highway to Kawaihau Road), Mailihuna Road (from Kūhiō Highway to Kawaihau Road), and Olokena Road (from Malu Road to Ka'apuni Road), including reconstruction of deteriorated portions of the roadways, which are eligible for Federal Aid Program funding: Mr. Kagawa moved to approve C 2014-51, seconded by Mr. Rapozo.

Chair Furfaro: I have a motion to approve and a second. I am going to suspend the rules for your presentation, Mr. Dill.

There being no objections, the rules were suspended.

LARRY DILL, P.E., County Engineer: Good morning Council Chair and members of the County Council. For the record, Larry Dill, County Engineer. I do not have much of a presentation for you. I just bring to mind for you that when we did our last Island-Wide Resurfacing presentation to Council with a list of roads, we had included at that time, a few roads that are classified as "collector roads." We found out during that process in working with Department of Transportation (DOT) and Federal Highways that there was an opportunity for us to pursue Federal funds for the collector roads. As you are well-aware, for the collector roads projects, when we get Federal aid, Federal Highway Administration funds eighty percent (80%) of the project. So, seeing that, we took them off of the list back at that time. What we need to do though, in order to qualify for those Federal funds is prepare construction drawings. You were also aware that we have some re-staffing issues that we dealt with Engineering, but thanks partly to that re-staffing, we were able to prepare those drawings in-house now, and so we are moving forward with the drawings for these roads and bringing them back again to the Council. The twenty percent (20%) match for the County we have currently available from funds that have already been appropriated by Council from two (2) sources. One is moneys remaining from the current Island-Wide Resurfacing project that we are closing out right now, and the rest of it is there. As you are aware, there was a resurfacing of various collector roads line item. Basically, we have about two hundred ten thousand dollars (\$210,000) remaining from the Island-Wide Resurfacing project and two hundred fifty thousand dollar (\$250,000) approximately from the various collector roads line item. So, we are using that as our match of four hundred sixty thousand dollars (\$460,000) to enable us to do a two million three hundred thousand dollars (\$2,300,000) resurfacing project. So, with that, I will open it to any questions that you may have.

Chair Furfaro: Vice Chair, you have the floor.

Mr. Chock: Thank you, Larry. Can you give us a timeframe in terms of action on these?

Mr. Dill: Sure. We are in the process of preparing plans now. We have worked with DOT and Federal Highways to get this on the Statewide Transportation Improvement Program (STIP) project. We need to get one hundred percent (100%) plan specifications and estimates submitted to DOT by May of this year. So, when we get the drawings complete by that time, and as soon as we get approval, we would go out to bid. So, we would bid this – I do not have a firm schedule for you, but I would expect in the summer.

Mr. Chock: By summer?

Mr. Dill: Yes.

Mr. Chock: Thank you.

Chair Furfaro: Mr. Kagawa.

Mr. Kagawa: Thank you. Thank you, Larry, for your presentation. Haua'ala Road, that is the road past the middle school?

Mr. Dill: No, that is Olohena Road. You have maps in your package there.

Mr. Kagawa: Yes. Haua'ala Road is...

Mr. Dill: Haua'ala Road is at the northern end of the Kapa'a temporary bypass. The next road, as you are heading North, is Haua'ala Road. It takes you up into Kapa'a up towards the high school.

Mr. Kagawa: Okay. Those are the only three (3) roads that qualify for applying for these collector road grants?

Mr. Dill: Those three (3) are collector roads. We do have other collector roads on the island of course, that qualify for Federal aid funding, but these three (3) are being brought forward. Two (2) of them are mentioned, I think, on that earlier list that I had mentioned that we took off the list when we found out Federal funds were available. Looking at these three (3), two (2) of them were already on the list. These three (3) are some of the three (3) that are the highest traffic as well as some that we get most complaints from. My friend, Mr. Mickens, calls me often about Olohena Road. So, these are the three (3) we are putting forward today.

Mr. Kagawa: So, for this fiscal, these are the priorities?

Mr. Dill: Correct, yes.

Mr. Kagawa: And maybe next year we will focus on some other collector roads?

Mr. Dill: Yes. So, a good question. Next year of course, we are working on budget times right now, and of course, we will be coming before Council for more funding. When we do the Island-Wide Resurfacing with

that next allocation of funds, we will probably be doing a mix of collector roads and local roads. At that time, we would be able to present to you based on our pavement management system program that we will be putting in place as to how those roads would be selected with the next allocation of funds.

Mr. Kagawa: That is terrific because when we are broke as our County is, these are the perfect ways to improve our roads and we want to take maximum advantage of these opportunities. Thank you.

Chair Furfaro: JoAnn.

Ms. Yukimura: Thank you for bringing this project forth. We will pretty much oversee and implement the contracts, right?

Mr. Dill: Yes.

Ms. Yukimura: And basically, the State is giving us the eighty percent (80%) of the funding?

Mr. Dill: Well, it is Federal money that the State administers to us, yes.

Ms. Yukimura: Yes. I see that there will be some reconstruction activities...

Mr. Dill: Correct.

Ms. Yukimura: ...not just paving, which I think is very good.

Mr. Dill: Yes.

Ms. Yukimura: I have seen both on the State highways system and on my own road, grass coming through the pavement.

Mr. Dill: Okay.

Ms. Yukimura: Is there not ways to prepare the base of the repaving such that – I mean because grass is what will break through the surface, to prevent that from happening so soon in the life of a road?

Mr. Dill: So, you have seen that on recent projects that the State has done?

Ms. Yukimura: About three (3) years old, yes. Kapule Highway right at the airport intersection.

Mr. Dill: Well, I guess it is difficult for me to speak without looking at the particular situation. I am not sure of the State's project.

Ms. Yukimura: But Kapena Street, my road too.

Mr. Dill: Okay.

Ms. Yukimura: But that is about three (3) years I think.

Mr. Dill: Yes. I would have to look at those particular situations, but I am glad you mention them. We will look at that because we should be prepping the road so that sort of thing does not ever happen.

Ms. Yukimura: Thank you. I appreciate that.

Chair Furfaro: Larry, first of all, let me congratulate you and Ed and your work on this. Eighty/twenty (80/20) is outstanding for the road piece and did you give us a short explanation about the qualifications of a collector road?

Mr. Dill: Yes. The County, the State, and the Federal have various classifications of roads depending on the purpose, what they serve, traffic counts, et cetera. So, the lowest classification would be the local roads. So, generally speaking, you will have residents using a local road. The local roads are then served by the collector. So, they collect the traffic, we try to minimize access on the collector roads because the more access, driveways, et cetera, intersections you have along a collector road, it impacts traffic flow. So, the collector roads basically collect the traffic from the local roads and gets it to the major destinations. So, from the County standpoint, local roads do not qualify for Federal aid, the collector roads do. Rural major collectors is actually the specific classification.

Chair Furfaro: Okay. Then, on the eighty /twenty (80/20) split, the State is kind of just a conduit, a pass through on this? They are looking to us for the oversight, the administration, and the supervision. Do we put in to the total cost of the project some of our time so that we get reimbursed?

Mr. Dill: Yes, we do. So, included is – it depends how we want to do the Contract Management (CM). If we want to CM it ourselves then we will include it. If we are going to outsource the CM work, then we would go ahead and include that cost in there as well as any contingency money. So, we have the ability now within the Roads Division, to do the CM work. For instance, Kōke'e Road was a big project for us. Federal Highways funds and we did the CM work ourselves. So, all of that money is accounted for in there.

Chair Furfaro: So, you know me well enough by now when I ask those kind of questions. Could you summarize for me, what our reimbursable was for supervision?

Mr. Dill: You mean the cost, the dollar amounts?

Chair Furfaro: No. What portion of that we got reimbursed for.

Mr. Dill: I am sorry...

Chair Furfaro: So, if you put one hundred dollars (\$100) in for our supervision of the roads, we are getting eighty percent (80%) of that back, right?

Mr. Dill: Oh, that is correct, yes.

Chair Furfaro: So, in other words, I would like to know the total manpower allocated from Ed and his supervision as well as yours, and how much we actually got back because I would like to see that credit in the payroll line.

Mr. Dill: Okay. Is that for the Kōke'e project you are talking in particular?

Chair Furfaro: Any of the projects we have done in the last eighteen (18) months.

Mr. Dill: Okay.

Chair Furfaro: And there is no immediate urgency for that, but I would just like to see it.

Mr. Dill: Could I request that you send a memorandum request over so that we can respond formally to that, please?

Chair Furfaro: I think most likely when I ask you a question, you usually see it coming over in writing, right?

Mr. Dill: Just confirming. Okay, thank you.

Chair Furfaro: So, I will not fail you, Larry. You will get it in writing.

Mr. Dill: Alright.

Chair Furfaro: Great job. We are going to take some public testimony now on this subject. Thank you, gentleman. Glenn, I figured you are at the top of the list. Joe, are you going to speak on this item? Yes? Ken, are you going to speak on this item? I do not think he heard me. Ken, are you going to speak on this item too? No? Okay. Then we are going to go to Historical Society.

Mr. Mickens: For the record, Glenn Mickens. Thank you, Jay. Thank you, BC. You have a copy of my testimony. As you know, I have been on this roads thing for fifteen (15), twenty (20) years I guess. So, it is not unusual that I should be here. You have a copy of this, so, I will read it for the viewing public. I would ask my friend Larry Dill and Ed Renaud when Public Works is going to stop using cold mix to dump in our pot holes. It washes away in the first hard rain and most of the time, the cold mix that is dumped in not even compacted. Once in a while, the workers will roll their trucks over it with their wheels, but that is it. It is good to see Oloheua Road from Malu Road to Ka'apuni Road finally get repaved, but again, I hope that the road will be done by Hawai'i Asphalt Paving Industry (HAPI) or American Association of State Highway and Transportation (AASHTO) as Larry is saying, standards and not just put more cold mix in the deteriorating area. I hope that the road from Kūhiō Highway to Malu Road, I believe it is called Kukui Street, would be done at the same time as well as Ulu Street. That is the one where Kaua'i Marine comes out there. Ulu Road and Kukui Street intersection has been in horrendous shape for a long time and certainly needs much repair. In my twenty-four (24) years of living in the Homesteads, I have watched cold mix used not just in pot holes, but dumped along upper Waipouli Road, not just in pot holes, but in a non-pattern use along the shoulders. Since this road like many others is only thirteen (13) feet wide, (illegal according to County

Code book), says any County road shall be at least sixteen (16) feet wide and it is in bad shape. You are wasting your time, material, and money doing this. There is denial that some roads on Kaua'i have been and are being paved for political reasons and not for usage and condition of the road, which as Larry said, is the proper procedure. A check with former roads maintenance Larry Tavis, will show that this statement is not true and I hope that close supervision will be in place to see that the proper standards, the ones that Larry has brought up before, the condition of the road and the usage of the road, the two (2) main factors that a road should be paved for. When Hauiki Road was repaved a few years ago, a triangular piece at the South end of the road was left unpaved and badly needs attention. It is a small job, but it is really in bad shape. Two (2) other questions arouse. The developer of the Kulana subdivision was mandated to put a twenty (20) foot wide double striped road starting at the South end of Hauiki Road to the segment of Hauiki Road that goes to Oloheua Road by the twin reservoirs. I am sure you folks are probably familiar with it if you are in that area. This was built ten (10) years ago, the subdivision, and the subdivision had never been opened. But why cannot this new, never used road be open to keep the many people in the Homesteads from detouring around the subdivision on a road in dire need of resurfacing. You have all seen statistics showing the far greater cost of our roads as years go by without proper maintenance. So, when are we going to see yearly resurfacing happening and not the three (3) year schedule that we are now on?

Mr. Watanabe:

Three (3) minutes.

Chair Furfaro:

Glenn, that was your first three (3) minutes.

Mr. Mickens:

Okay. I only got another paragraph, Jay. Does the driving public not deserve roads that are kinder to their vehicles, front end alignment, shocks, springs, tires, and plus the drivers themselves? I am still a little vague Jay, about the resurfacing program. Again, we had eight million eight hundred thousand dollars (\$8,800,000) in our – you folks have okayed in the repaving process. Are we going to keep on going with the three (3) year period for doing it or are you going to approve a repaving schedule and then we are going to go ahead and repave each year or are we going to go on this three (3) year thing? Again, I know Larry is going to have to have more money to do the job properly as the AASHTO standards show, which I really compliment him for doing that because that means like JoAnn has pointed out, you are going to get a sub-base in the road. You are not just going to gloss over on top of the bad surface, cracked surface and everything and put over like it has always been done in the past. They are going to do it properly. So, I really compliment him, but is going to have to have added money obviously. So, the question Jay, can you answer that? Are we going to pave? You are going to okay a budget each year, the repaving schedule? I have watched it for ten (10) years coming over here or more to you folks and then you go ahead and okay it, they go back and they have not been paved. Whether it was one million dollars (\$1,000,000) or the year another one million dollars (\$1,000,000) was added or whatever it was. We repaved every year, but now as you see, it has gone three (3) years that we have not done any repaving. You brought it up I think. Maybe JoAnn, talking about how if we do not maintain it, it is going to cost far more to have to go down and re-dig up the total road as opposed to possibly just skinning it and resurfacing it a little bit. Have you got an answer for that, Jay?

Chair Furfaro: Well, do I have an answer? I am not quite yet qualified to be the Engineer, but I will tell you what I understand and I will put it in my letter. I understand we are following the new standards, they anticipate

some better longevity to the roads, and I also understand that if they do it every two (2) years, they will be able to get a little bit more volume for surfacing, which will actually contribute to doing a few more miles. Now, I will put that in a request to get confirmation, but I think it is every two (2) years in their plan now, Glenn, not three (3).

Mr. Mickens: Two (2) years?

Chair Furfaro: Two (2). But I will ask for the confirmation.

Mr. Mickens: So, that is kind of a counterproductive thing because the longer you wait again, now you are going to have to do more to the roads as opposed to maintaining it on a yearly basis, right?

Chair Furfaro: Okay, that is not what they are telling us. They are telling us by following the new standards, the longevity of the roads will be better than the practice in the past and to get more volume, they will try and compress the budget so that they will have a pot of money to spend for two (2) years which will give them some additional roads. I will put that question in and I will ask for confirmation.

Mr. Mickens: Okay.

Chair Furfaro: If I understand it correctly.

Mr. Mickens: Okay.

Chair Furfaro: Okay?

Mr. Mickens: But I compliment Larry for what he is doing.
Thank you.

Chair Furfaro: Thank you for that. Joe.

JOE ROSA: Good morning members of the Council. For the record, Joe Rosa. Again, we are here discussing paving roads. The problem here, they are doing a good job. Finally, we have roads that I look forward back in 2004 was finally paved this past year. They finally got it after about twenty (20) or thirty (30) years because I have been retired twenty-eight (28) years and it was before I retired that they paved the roadways up in our area. Now, the thing is up in that Olohena Road area, if it is much of a problem for the County, I do not know what the criteria is with the State as far as for the County turning over roads to the State because when I was working with DOT, I seen that transition made for the Kuamo'o Road that was a County road from Coco Palms up to the university experiment station. When the justification came that it was based on the traffic count for Kuamo'o Road, they finally said that the State could take over the jurisdiction of that roadway because of the travel and use of it by all of the subdivisions coming in from Nobriga, Fernandez, Nakamura, and Hayashi. You name it all. All of those housing developments. So, the State started out with the widening, cutting of the hillside out of the State park up there, and including all guardrails. Everything came first class, Federal aid highway. So, I think a lot of the problems at Olohena Road could be solved in that manner. Look into if there is enough volume of traffic that the State would take it over under their jurisdiction because a lot of the wear and tear of that road was basically used by Hawaiian food

packers when they were in the pineapple business. Those roads were heavily used by the big trucks. So, that causes the wear and tear, Jay, and those heavy trucks where they had a weight capacity based on axels of the truck. So, it tears up the roadways. I know when we were paving they used to say an inch and a half would give you seven (7) years of life, but remember Jay, that State highways are with all kind of traffic, big trucks, trailers, and everything else.

EDUARDO TOPENIO, JR., Administrative Assistant to the County Clerk:
Three (3) minutes, Mr. Chair.

Mr. Rosa: It is based on weights of the vehicles and the type of vehicles that is used. Then, if we went with a layer of two (2) inches, it would give you ten (10) years. I do not know. I have to check with Ray McCormick if it is still the same criteria. An inch and a half would give you seven (7) years, two (2) inches would give you ten (10) years. As for JoAnn, those cracks where the weeds grow or grass grows through, at times we used to use herbicides. Now, that is a bad word for you because you do not want to use herbicides, you want to condemn use of that. So, they can solve it by use of herbicide, but being that it is an issue with the County and the State about herbicides along the highways, I think it is a no, no as far as anybody doing it. The military did it on Barking Sands on a job that I worked for a contractor over there to do the inspection work. So, if there is a need, you have to use it. Those are the things that from my time when I worked, when we had seminars on paving, I never did see any County inspectors from Kaua'i during my time, go to the seminars and I attended a lot of them. That went from actual pavement to the patch-o-matic fabric that was introduced just before I retired. I was certified to work with the patch-o-matic fabric. A lot it is lack of knowledge and as far as the paving of any highway, all you need is one (1) project engineer and one (1) project inspector, when we did the job. So, I know what it is to take. It is knowing your job, knowing your work, and what to look for. I used to take pride in my work because I used to hear all kind of results from the public. The key in today's work is workmanship has to do with pride, not only getting your paycheck because that is where it counts. Spending that money, get a job well-done that would last you from seven (7) to ten (10) years. A lot of these County roads, like I just said, there is a liability now because there are a lot of County roads that are in jeopardy. I do not know how much roads are in jeopardy in that Wailua Homesteads area, but I know Jay, you said you had a list once of roads that were in jeopardy and you would present it to me if I wanted it. I know when I talked to Larry Dill he said there is a whole lot of roads that the County has in jeopardy. So, how can you do anything if you are not sure if you own it, to make it free from any kind of liability suits that the condition of the roads are in now? They are in such bad condition that the County is afraid of the liability so the coming up of the ownership, who owns it?

Mr. Topenio: Six (6) minutes, Mr. Chair.

Mr. Rosa: All of the roads are in limbo.

Chair Furfaro: That is all of your time, Joe.

Mr. Rosa: Anyway, I leave you with those thoughts. Look into the roads whether you own it outright or it is in limbo and maybe the person to check with is Mr. (Inaudible) because when I worked with DOT, we had to go to his office to check and there were a lot of roads that were granted to the County by way of a gentlemen's handshake. Thank you.

Chair Furfaro:
on this item?

Thank you, Joe. Anybody else want to testify

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: I want to make sure a couple things clear on what was said. There is State legislation. The roads in limbo have been an issue in the State of Hawai'i and in the Garden Island since 1927. There is an entitled history on it. So, I do not think this Council is going to probably get to be able to have that thorough discussion especially since there is a Bill in the State legislature right now to deal with roads in limbo. Maintenance is a problem for the State, and liability is a problem for the Counties. Also, a lot of people do not realize, if you would like, I have them available through State Highways, there is legislations that complies now with a lot of Federal use or restrictions on spraying at State Highways. It has been in place far between before the County has put in any regulations on setbacks and so forth. That material is available as well. I thank Larry for the update on their partnership with the Federal money going through the State on the work that has been identified. Do we have any further discussion? Mr. Hooser.

Mr. Hooser: Yes, just brief comments, Chair. The question of the Kulana Road off of Hauiki Road was raised and just for the record, I have put a request in to Public Works asking for a status update and to encourage them to find a way to utilize that road. So, that information will be forthcoming. The Roads-in-Limbo Bill, since you raised that, I think that it is important to point out that that Bill, the one that I looked at any way, included a half percent increase given to the Counties, the General Excise (GE) tax, to raise it. So, it was kind of a double...

Chair Furfaro: Double-edged sword.

Mr. Hooser: Double-edged sword if you would in that measure, but I just wanted to bring those points forward. Thank you.

Chair Furfaro: Thank you. Any further discussion? If not, this update was for receipt. We had a motion and a second.

Mr. Topenio: It was a motion to approve.

Chair Furfaro: Oh, I am sorry. My apologies. Because it dealt with the Federal moneys, it was a motion to approve. I am sorry.

The motion to approve C 2014-51 was then put, and unanimously carried (*Mr. Bynum was not present*).

Chair Furfaro: Thank you very much Mr. Topenio for the clarification. Now, we are going to go to the Historical Society, second reading. Thank you, Larry.

Mr. Topenio: Alright, Chair. We are going to go to page 9 for Bill No. 2528.

There being no objections, Bill No. 2528 was taken out of order.

BILLS FOR SECOND READING:

Bill No. 2528 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of Economic Development, Administration – Other Services, Kaua'i Historical Society Grant – \$25,000*): Mr. Kagawa moved to adopt Bill No. 2528 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro: I have a motion from Mr. Kagawa and a second from JoAnn. Members, any commentary before I ask if there are comments from the public? Go ahead, JoAnn.

Ms. Yukimura: I think yourself, Councilmember Rapozo, and I were at this weekend's Chinese New Year's celebration which is one of the events that the Historical Society is presenting or co-presenting as part of the celebration of one hundred (100) years. It was very well done and I want to thank the Committee, former Mayor Kusaka, and others who worked on it. It was very nice.

Chair Furfaro: Yes, it was an outstanding evening. Mr. Rapozo, did you want to comment on the event?

Mr. Rapozo: It was great. The food was good. The festivities, the entertainment was – it was a fun evening. Thank you.

Chair Furfaro: Yes. It was enjoyed by all and again, this allocation is probably supporting some of the events, facilities, and equipment that is need to celebrate on May 10th, the one hundred (100) year celebration of the Kaua'i Historic County Building and the birthday for the Historical Society. On that note, I will open for any public testimony. If you would like to add anything from last week, this is the time.

There being no objections, the rules were suspended to take public testimony.

BILL FERNANDEZ: I will begin with *e aloha e* to all of you.

Chair Furfaro: It was a wonderful welcome chant, Judge. Thank you.

Mr. Fernandez: Bill Fernandez. I just wanted to say that we have had a great meeting with Jay Furfaro on Monday and also other people on our presentation. I know we are going to be *kanikapila*, we are going to make merry music together as a County, as a Historical Society, and all of the ethnic groups that are participating in this. We are going to have a wonderful voice for our people on this island. *Maika'i*.

Ms. Yukimura: *Maika'i*.

Chair Furfaro: *Mahalo*. Thank you. Would anyone else like to add any testimony? Again, this celebration date is May 10th. We will in fact try to acknowledge and replicate what was done for the celebration of the opening of this building for the public. There will be a 7:00 p.m., a 5:00 p.m., and a 3:00 p.m.

tour of the building. While the public is in attendance, they will be able to hear the history on the building, the support from the Society, and celebrate their events. So, if there is no further discussion, I just want to point out, I met briefly with George again today. He has the list of equipment that will be needed and his office will be administering this grant once we approve it. Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Can I have a roll call vote since this is a Money Bill?

The motion to adopt Bill No. 2528 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Mr. Bynum was not present.)

Mr. Topenio: Six (6) ayes, Mr. Chair.

Chair Furfaro: Six (6) ayes. Thank you very much, and we all look forward to the event. Thank you. Next, item on the agenda, please.

Mr. Topenio: Next item, Mr. Chair, we will go back to page 2.

Chair Furfaro: Civil Defense?

Mr. Topenio: Yes, sir.

C 2014-52 Communication (02/04/2014) from Council Chair Furfaro, requesting the presence of the Civil Defense Manager, to provide the Council with a briefing and update on the new Tsunami Evacuation Maps: Mr. Chock moved to receive C 2014-52 for the record, seconded by Mr. Rapozo.

Chair Furfaro: Thank you.

There being no objections, the rules were suspended.

Chair Furfaro: Welcome. I guess you are going to share a PowerPoint with us, some of the new maps, and the public information that is related to that. Then, we may have a few questions for you. So, I will give you the floor, once you introduce yourselves.

GLEND A NOGAMI-STREUFERT, Civil Defense Manager: I am Glenda Nogami-Streufert. I am the Manager for the Civil Defense Agency.

ELTON USHIO, Plans and Operations Officer:
and Operations Officer with Civil Defense.

Elton Ushio, Plans

Ms. Nogami-Streufert: We are here this morning to talk about our new evacuation maps that we have. As you know, the mission of the Civil Defense Agency is to protect the lives and the property of citizens as well as visitors that we have to the County of Kaua'i, especially during times of emergency and disasters. So, for us, it is very important. Tsunamis are very important and if you look at – I have a map here. I am sorry, I could not get it to you in time. This is a map that we have that indicates, for the last three thousand five hundred (3,500) years, all of the events that have created tsunamis around the world. This is for the last three thousand five hundred (3,500) years and most of them are around the Pacific Rim, which indicates that Hawai'i is a target, which makes tsunami evacuation extremely important for us.

So, what we are going to be doing today is to talk about how we have improved our mapping. This is what we had in the past. This is what you will find in the older phone books and essentially it is really looking at our historic observations as well as 1970s to 1900s science. It is not very detailed. If you were to look at this, it is very difficult to tell where you are in it. Consequently, what we did was, and Mr. Ushio was very instrumental in this, he was leading the effort on it. We took the five (5) most severe twentieth century Hawaiian tsunamis. We also computed at high tide, to ensure that we had the safest routes or safest mapping possible. Then, we also had it reviewed and this was reviewed by not just the scientific and emergency management people, but also with a multi-disciplinary committee within the County as well as with State and Federal, as well as non-governmental agencies. This is what it looks like now. This will be in the new phonebooks and in fact, it is already in the Yellow Pages 2014-2015 book. There are twenty (20) different maps. Some of the maps are expansions of other maps. So, for example, if you looked at Map No. 19, it really expands Map No. 18 because that is the Po'ipū area and we have a lot of people living in that area.

Let me show you what these maps look like. This is Līhu'e. At this point, you can see the difference that we have. It is so detailed that you can see your streets. This makes it easier for people to identify whether they are in or out of the tsunami evacuation zones. Now, the tsunami evacuation zones are the minimum safe areas. So, if you do not feel comfortable, please leave from that area. We are also telling people not to be within one hundred feet (100) of any inlet or any river or stream that is connected to the ocean where you could have surges. We have these maps and I can run through them very quickly. This is the Līhu'e area. We are going in a counterclockwise around the island. This goes towards the Kapa'a area. Here is Kapa'a. Just continues on. Moloa'a going up past that. Kalihiwai. Continuing on the Kīlauea. Hanalei. This just continues on. You see that it has expanded from what we have had in the past. This information is available not just through the phonebooks, it is also available on the Kaua'i government website. Here it is, and we will show you an interactive – it is interactive on the website and we will show you that. Mr. Ushio will be demonstrating that for you. This is the Kaua'i government – Kaua'i County...

Chair Furfaro:

Excuse me. Could you...

Ms. Nogami-Streufert:

I am sorry.

Chair Furfaro: Could you go back to the map of Po'ipū and Kōloa?

Ms. Nogami-Streufert: Yes. Here is the map of Po'ipū. This is a more detailed map. You can see some of the hotels that are already there. These are the minimum safe levels. So, we are expecting that people will, if they feel unsafe, they will go higher.

Chair Furfaro: Thank you.

Ms. Nogami-Streufert: What we are going to be demonstrating now, is going to be the County of Kaua'i website, but it is in the 2014 telephone books, the Yellow Pages has it already. HawaiianTel is coming out, I think in March. That is the anticipated timeframe. You can also find it at the National Oceanic and Atmospheric Administration (NOAA) site as well as ready.gov/hawaii. We will be demonstrating a more interactive.

Mr. Ushio: *Aloha.* If you go to the County's webpage and you navigate to the Civil Defense page or easier if I just say www.kauai.gov/civildefense, you will come to our page here. On the County's page, if you navigate, you can actually use our tsunami evacuation map viewer search by address or area of the island in the upper portions there. You can search by address here or area of the island. The screen text are downloadable files version of the maps that we just provided to you, but perhaps the most useful tool for yourselves and the public is our joint effort with NOAA, Federal partner, here, clicking on the NOAA site. Our Geographic Information System (GIS) support, Garret Johnson from Information Technology (IT), was able to get our interactive map activated where you can zoom into Kaua'i and individual portions. So, Chair Furfaro was interested in the Kōloa area. Let us go here. Po'ipū. We can zoom in to very close detail. Click on "satellite" and we can actually see the photos of the buildings, aerial photography of the properties. Residents, businesses, and visitors alike will be able to have this at their fingertips. It is available right now. We are not simulating this. This is a live interactive demonstration that we are showing you.

Chair Furfaro: Terrific.

Mr. Ushio: So, if any portion of the island you want to see, we are able to go there and show you what it would look like.

Chair Furfaro: Could we go to Wailua?

Mr. Ushio: Wailua? Will do. What portion of Wailua, sir?

Chair Furfaro: I would like to see the *heiau* area by Wailua River mouth.

Mr. Ushio: Would you like in satellite mode or map mode?

Chair Furfaro: Map mode.

Mr. Ushio: This is satellite.

Chair Furfaro: I just noticed, that hotel is now in the shaded area where it had not been in the past.

Mr. Ushio: No. We have had various areas that have seen changes based on the new modeling. Believe it or not, some areas on the island, even those touching the ocean for many years, had gaps. They were not in evacuation areas, but the new modeling showed us that those needed to be added. So, we subsequently added. Even undeveloped areas along the Na Pali, because of people accessing for camping, kayaking, hunting, or fishing. We added a small zone around the entire island.

Chair Furfaro: So, how did you folks communicate to the Aston Management team who uses that hotel in the past as an actual shelter for other Aston guests? Now that it is in the zone.

Ms. Nogami-Streufert: That is going to be part of our next effort, which is going to be the outreach. We have already started some of that outreach through the Mayor's community meetings to let people know where this is, where the information is available, but we will be doing a lot of outreach and educational programs with the residents as well as with the businesses out there.

Chair Furfaro: I guess I ask that because we were so short of a number of shelters in the past and now looking at Kōloa and looking at Wailua, some of the facilities that have been used as shelters are now done. Go ahead Mr. Hooser.

Mr. Ushio: Yes. Chair Furfaro, Wailua-Kapa'a area, I would say on the West Side from Kekaha to Mānā, we have seen the greatest changes in expansions of the zones with the new modeling. So, some areas have seen significant changes. Glenda is talking about our public information outreach campaign. We are also partway through our evacuation route and signage project where we will be putting signs around the island directing people which way to drive to evacuate the evacuation areas. Also, we will have signage indicating when you are entering and exiting the areas. That is due to a multi-disciplinary team approach. We already have a GIS there developed and we will be working closely with County, Public Works Roads Division, and State Highways in the erecting of those signs.

Ms. Nogami-Streufert: And that is an effort that is ongoing, but we are finalizing the plans hopefully this week, so that they can start putting up the signs.

Chair Furfaro: It is an ideal model. I have seen it many times in Hilo, but let me give the floor to Mr. Hooser.

Mr. Hooser: You may have already addressed some of this or may plan on, but similar to what the Council Chair's question is, my question is about the impacts on insurance companies, people who hold mortgages, and I would imagine that if you had a home that was not in the tsunami area and now it is, then that would impact your insurance rates and possibly the bank holding the mortgage may want to know that also.

Ms. Nogami-Streufert: This is the evacuation zones. It does not necessarily mean you are in the inundation zone.

Mr. Hooser:

Okay.

Ms. Nogami-Streufert: This is just to keep you safe, but we have been assured by Federal Emergency Management Agency (FEMA), and we have that in writing, that it does not have an impact upon your flood zone or flood insurance rates. However, there is another thing that is going on at the same time, which is the 2012 Biggert Waters Bill that went through Congress that said that the Federal Flood Insurance plans were going to be affected by the actual risk that a person or that a property has in terms of flooding. That passed in 2012. In 2013, there was another Bill that came up that said, hold on, we are not going to do that until we know exactly what is going to happen. So, right now, we have been assured by FEMA that there is not going to be an impact based upon our tsunami evacuation zone maps.

Mr. Hooser: Okay. So, just to get clarity for me because it is getting a little fuzzier actually. This presentation is the County's representation of the areas in which should be evacuated during a tsunami event. However, FEMA has different maps, basically. Are there two (2) different standards going on here?

Mr. Ushio: FEMA utilizes Flood Rate Insurance Maps, FRIM is the acronym. Those are developed using their own processes and formulas, but we were assured directly by our FEMA Region 9 that our updates to these maps in no way affect their insurance rate maps. Our partner jurisdictions on Maui County and City and County of Honolulu in fact, had done this project just prior to us because they got the modeling before us. I can tell you that with Honolulu in their 2010 update, when FEMA published their 2013 updates to the FRIM, it was not affected by the tsunami evacuation map updates.

Mr. Hooser:

Okay. Thank you.

Mr. Chock: Thank you. I see that you folks have some indicators for determining the evacuation levels. Is there a specific formula that you folks are taking into consideration? That was my first question. I have a second question because, one of the things that I know is happening is rising sea levels of course. So, my second question is, does that part of that formula and based on that, how often do we have to update this plan? Maybe three (3) questions.

Ms. Nogami-Streufert: I think this is a dynamic kind of situation. This is the minimum safe evacuation zones that we have identified right now and again, it is higher than it has been before because our first mission is to keep people safe. So, that is what we are trying to do. How often does it have to be updated would depend. Like you said, there are problems with rising sea levels. Nobody really knows how fast they are going to rise. So, if they rise faster than we think, obviously, these maps are going to have to be updated more frequently, but this is the best scientific, computer modeling that we have available to us. So, we are trying to use the most updated equipment that we have, if you will, to make sure that we keep people the safest as possible. However, it is a dynamic model, just as the Earth is dynamic and we have tried to make it as safe as possible by looking at the five (5) worst tsunamis that we have had in the last century, plus we are using high tide. So, that was the reasoning for that.

Mr. Ushio: If you want more on the modeling aspect as far as threshold or what have you, we essentially were provided with projected flow

depths in a color-coded map showing inundation by the University of Hawai'i and based on that, our team developed the actual zones which slightly exceed those areas. We tried to use logical boundaries like roads for example, where possible, where it is easy to tell where the boundary would be, but in some larger properties you will notice some hotels that it goes through their property. We did, in all cases, add a little bit more beyond the actual zones, sometime not much, sometimes several yards beyond just for an added margin of safety.

Mr. Chock: Great. Well, obviously we have come afar from where we have been. Yesterday I had the chance to catch a plane to Honolulu and sat next to Anabelle Kam and for the twenty (20) minutes, she talked about the 1946 and 1950s...

Chair Furfaro: 1957.

Mr. Chock: Yes, 1957, and how scary it was for her and her family. She was a little girl at the time. So, we have come a far distance thanks to you folks. So, I really appreciate your work.

Ms. Nogami-Streufert: We have to also acknowledge that the Fire and the Police Departments are really our partners in this because they assist us in all kinds of evacuations and if there is any doubt, wherever the Police tells you to go, that is where you should be going.

Mr. Chock: Thank you.

Mr. Ushio: So, beyond these evacuation layers, Kaua'i Police Department has already established their primary and secondary roadblock locations, all of which exceed the layers. So, they will be pushing the public beyond that. That too, is related with our evacuation and signage project.

Ms. Nogami-Streufert: If you look on your briefing charts, some of the other things that we have there are our supporting and upcoming initiative. One of them is the tsunami route signage that is going to be starting soon because we have just now identified where we are going to be putting those signs. The State and the County Highway roads people will be helping us on that. Hopefully, we will get that done as quickly as possible. The second part of it is that we are doing a lot of public information and outreach. We started with the Mayor's community meetings and that will continue on, not just there, but also with the schools as well as with other community organizations. In fact, Elton was down at Hanalei during the Resilience Conference a couple weeks ago. The third thing that we are doing is we are expanding or improving and upgrading our outdoor warning sirens and we are continuing our contract with Connect-CTY so that people are going to be notified through their smartphones or phone systems, land phones, in case there is any kind of emergency that comes up. So, we are trying in many different ways, to get the community involved and the community to know what we are doing and where it is safe to go.

Mr. Ushio: So, more on the outdoor warning sirens just for your information, contractors and State staff have been on the island all month. Hopefully, by this Friday, will be on target to have our sirens converted from radio activation from our 800 Mhz system to satellite and cellular dual means activation for redundancy. We are hoping that if they are able to complete all of them by Friday, our siren test next week would be a good test of the new system.

Chair Furfaro:

JoAnn, did you have a question?

Ms. Yukimura: Yes, I do. As Councilmember Chock has observed, thanks to your work, we really are probably more prepared than we have even been and that is very encouraging. You indicated that you did these maps locally?

Mr. Ushio: We did the development of the evacuation zone maps locally. The wave modeling was produced by the University of Hawai'i.

Ms. Yukimura: So, that is sort of a standardized process throughout the State and then the local Civil Defense Agencies who know the terrain and all of the traffic flow and so forth, then establishes the evacuation map?

Mr. Ushio: Yes.

Ms. Yukimura: Okay. Did the flow models take into account global warming?

Mr. Ushio: I think that is kind of related to what Councilmember Chock had asked about. Flow models were just based on current conditions. I really do not know the rate of projected sea level rise due to global warming, but that in of it itself, is an area that is being looked at separately. So recommended, whatever the timeframe may be, we will by all means look at doing new modeling.

Ms. Yukimura: So, the maps can be improved as more information is available with some level of certainty or probability I guess.

Ms. Nogami-Streufert: That is what we hope to do, and that is one of the reasons why you will see that we are trying to upgrade a lot of the things that we are doing and we are trying to realign our organization to better meet the mission. When it comes down to it, we have to be able to have more community resilience, we have to have more outreach and more mitigation of the issues that we have here, which we have not always had in past primarily because we have been so focused on preparing to respond. So, we have that part of it pretty well-done. Now, we are trying to do the outreach. This is part of our outreach method or outreach materials that we will be providing for people, but the outreach is also that because it is interactive, you are able to now be more proactive about your own safety, at least on the tsunamis.

Ms. Yukimura: Right. Thank you very much.

Chair Furfaro: A couple questions from myself. What is being done with identifying replacement shelters?

Ms. Nogami-Streufert: That is another effort that we will have to do now because now that we have identified where the areas are. We just put these maps out towards the end of January. So, it is a relatively new product, but we wanted to get it out as quickly as possible so that people were as safe as we possibly could. All of the products are not together. The products for finding where you are and how to get out of there, we are trying to push that out first, but we will be doing a lot more outreach to identifying shelters as well as talking to businesses, hotels, and the individuals within the communities. We have started that. We are starting

another round with Kekaha because Kekaha is an area where it is pretty flat. The Hanalei to Hā'ena Resilience Conference was another effort because that is another area where we have a lot of concerns and that was very successful. Elton was there for the entire day.

Chair Furfaro: That was last night?

Ms. Nogami-Streufert: No, that was two (2) weeks ago, two (2) weekends ago, or three (3) weekends ago.

Chair Furfaro: I think they have another meeting last night, right?

Ms. Nogami-Streufert: That was on the Courthouse or the historical building I believe.

Chair Furfaro: Okay.

Ms. Nogami-Streufert: But I may be wrong. That was my understanding.

Chair Furfaro: Oh, I could be wrong.

Mr. Ushio: Chairperson Furfaro, as far as your concern about sheltering, actually with tsunamis the challenge is not as great as it is for hurricane sheltering where we need to have a certain degree of structural resilience against winds. In the case tsunamis, we actually call them "holding areas" or "refuge areas" and we are actually a lot more flexible with the type of facilities we can use. So, we can expand to additional buildings such as Neighborhood Centers and other things outside of the evacuation areas. It is not as great a challenge in that sense and we would still have access to all of our normal shelters if need be.

Chair Furfaro: Well, I understand the differences. I mean, I was Hotel Manager for the last two (2) hurricanes here, I was involved with the tsunami in the Cook Islands a few years back, and so forth. I understand that you are not dealing with the wind on the shelters and so forth, but clearly, afterwards you have nowhere to send people back to. So, I guess the next step for me is where do all of the rental cars go, what is the timing of the evacuation of the island, should we send our visitors off because there is no accommodations? I guess those are the next steps, right?

Ms. Nogami-Streufert: It is, and there is a Statewide hurricane – oh, it is a hurricane. It is not a tsunami, but it is a hurricane exercise, but some of the kind of things that you are talking about now are going to be some of the issues that we will be exercising. That is a Statewide exercise, but in terms of tsunamis, you are absolutely right. We are going to have to be looking at a lot of different areas. We do not necessarily look for buildings as shelters or as holding areas if you will, but obviously, sometimes tsunamis may come with rain. So, you want something there that people can feel a little bit protected from the elements. We are looking at holding areas that are time limited for the time being. Since most tsunamis, we will have about three (3) to four (4) hours, if it comes from the Aleutian Islands for example. We have about three (3) to four (4) hours that we can prepare. If it is anywhere else, we have either more or less time, but on the basis of that, we would be working very closely in the Emergency Operating Center (EOC) to make sure

that all of our partner agencies are there so that we can keep people as safe as possible on the island and that is our goal.

Chair Furfaro: Then the other piece is, based on, and again, this is my own experience as a Hotel Manager, have they ever expanded the plans that deal with securing planes, pilots, and crews should in fact the hurricane affect the other islands? They have to divert airplanes to an island that is not forecasted to be hit so that they can be used. Who is coordinating that portion of it?

Ms. Nogami-Streufert: Some of that is being done at the State level and we have a meeting that is coming up on Friday in fact, where we will be looking at some of these kinds of issues. They have been addressed in some of the meetings that we have had and I have only been to a couple of them, but at those meetings, there is usually something about hurricanes and how we are going to cooperatively react to that, to respond, as well as to look at recovery efforts. So, what you are talking about is the recovery part of it. The part of it...

Chair Furfaro: Well, the first part I am talking about is...

Ms. Nogami-Streufert: Is the response, the preparation, the mitigation.

Chair Furfaro: The response to getting equipment to a safe place that is not forecasted to be hit.

Ms. Nogami-Streufert: And we are looking at some of those kinds of issues because that is terribly complex because more of Hawai'i's economy is on an on-time system. So, there is a lot of those kinds of issues that we have and we are so far away from anywhere else. It is not as though we can bring a train in or a couple of busses and take them someplace else. So, those are the kinds of issues that we are working with. I do not know that we have all of the answers for it right now, but we are looking very closely at it.

Chair Furfaro: I just wanted to make sure it is on somebody's radar screen.

Ms. Nogami-Streufert: It most certainly is.

Chair Furfaro: It sounds like it is.

Mr. Ushio: As Glenda said, it is, and a very valid point because Chair Furfaro, you are probably aware if we are talking about a major tsunami event, our airport is the only one at a higher elevation. Well, Lāna'i, you cannot really land a large jet aircraft.

Ms. Nogami-Streufert: Not yet. (Inaudible)

Mr. Ushio: I better be careful not to insult her home island.

Chair Furfaro: Just want to make sure it is being thought of, and yes, we are at a reasonably good elevation in Līhu'e. JoAnn, you have the floor.

Ms. Yukimura: Thank you. So, at one point I thought that in resorts where there are four (4) stories that for tsunamis, the instruction is to go up. Is that still the policy?

Mr. Ushio: Yes, a vertical evacuation. If you look at the primary Lihu'e map, that is the only one with that footnote.

Ms. Yukimura: Oh, yes. Because that is the only place where there are higher than four (4) stories?

Mr. Ushio: Higher than six (6) stories.

Ms. Yukimura: Because you have to have six (6) stories in order to have vertical evacuation?

Mr. Ushio: Yes, that is what they recommend, concrete and steel reinforced building. If we pull up the actual note...

Ms. Nogami-Streufert: It is seven (7).

Mr. Ushio: Seven (7). I am sorry. I misspoke. It is seven (7) stories.

Ms. Nogami-Streufert: Oh, no. I am sorry, six (6) stories.

Ms. Yukimura: I see. So, it says if you have access to a reinforced concrete or steel structured building, which is six (6) stories or more in height, move to a location on the third floor or higher.

Mr. Ushio: Yes, and on this island, it is essentially the Kaua'i Marriot, is the only one that would meet those thresholds.

Ms. Yukimura: Even though there are four (4) story hotels?

Mr. Ushio: Yes, even though they are four (4) stories. That is what is recommended.

Ms. Yukimura: Because six (6) stories are only the ones with enough structural integrity?

Mr. Ushio: I am not an engineer, but that is my understanding. That is the rule that is followed Statewide.

Ms. Yukimura: Okay.

Chair Furfaro: That is the rule Statewide, but there are three (3) and four (4) story structurally sound hotels of which they do have the green light for hurricane and so forth, but the question is on tsunamis.

Mr. Ushio: We have interesting architecture here where they actually have them terraced where they are four (4) stories, but they are kind of stacked in a method...

Chair Furfaro: Tiered.

Mr. Ushio: ...that makes it seem like it is higher than it actually is.

Ms. Yukimura: I mean, because if people could stay in place and not fill up the roads, that is a plus, but you would have to be sure that they are really safe. Okay. Thank you for the clarification.

Chair Furfaro: Any more questions? If not, thank you very much and please keep us posted as things develop.

Ms. Nogami-Streufert: Thank you very much for your time and attention.

Chair Furfaro: Thank you. Public testimony? Glenn.

Mr. Mickens: Thank you, Jay. Thank you, BC. I thank these people for a fine presentation they gave us about this evacuation for our Civil Defense. However, for me, the major item not mentioned in their presentation such as the signage for escape routes is why we are not building more alternate routes to get out of these danger areas. Cut Kūhiō Highway in any one place as with the Kaloko Dam and this island stops. Even if there is a traffic accident, we cannot move. It backs up, you have cops out there. We have one (1) route here. So, why are we not using some of this Federal funds for Civil Defense and building more routes on this island at this stage of the game? We need them desperately and it would solve two (2) problems for the Civil Defense part of it and it would alleviate our traffic problem, which are horrendous, as you know. You go through that Kapa'a corridor daily, they back all the way up to Keālia for crying out loud, trying to get to the river and you come out of the Kapa'a bypass road to get there. I have seen it backed all the way up to the roundabout. No actions or anything, just trying to merge onto Kūhiō Highway. Anyway, I just think that while we are looking at this big picture, these evacuation areas as they showed all around the island, we could and should be looking at our cane haul roads. Were these cane haul roads not, I was not here obviously when they were put in, but they were to keep trucks and stuff off our highway so that traffic could move along. I think we are missing a big part of this equation of evacuation and everything, which the pictures so well illustrated, but I think we are missing a big part of the picture by not going after more roads. Thank you, Jay.

Chair Furfaro: Joe, come on up.

Mr. Rosa: Members of the Council, for the record, Joe Rosa. Again, a lot of the things I hear is not totally completed from the Civil Defense people. I have lived on Kaua'i from 1946 and I worked through disaster areas with DOT and restored Kalihiwai Bridge. I worked on the Wainiha and Lumaha'i Bridges out over there. Tsunamis are unpredictable. The recorded height, when I worked with DOT for the record, was thirty plus (30+). It was based on the debris that we found entangled on the telephone poles out in Wainiha Valley. Thirty (30) feet high plus. So, what the County issues are as building heights twelve (12) feet, ten (10) feet above the house, that is not sufficient because it has been recorded. You have to look on the heights of what can be expected from a tsunami. The hotels, they just based roughly thirty (30) feet. That is three (3) stories, thirty (30) feet. It can be higher. Look at the one that happened at Fukushima in Japan. It went over a wall that was built to protect the city from tsunamis and yet, it went over and went up and destroyed the nuclear plant that

they had there. So, it is unpredictable. You talk about access. Once you hit past the Hanamā'ulu area when a tsunami occurs, you cannot get through because you are going into the beach area by the golf course and all the way to Kapa'a. So, where are the access roads that we need? In the 1950s, they had access roads planned for the *mauka* in the back that you are going out of the tsunami area. From Līhu'e to Kapa'a, the basic population areas, you have to tsunami alert from 3:00 p.m. to 4:00 p.m. how are you going to get the traffic to go? Are you going to work certain sections in Wailua Houselots now, Kapa'a now? What are you going to do? Is there a time schedule? No. You need alternate routes with great roads like the *mauka* (inaudible) plant in the 1950s. They had great roads. Hardy Street. Ehiku Street. Rapozo pass over here like that. Get the traffic out of the cities or the towns. There is nothing like that there. We have one (1) road in, one (1) road out for the last seventy (70) to eighty (80) years. You check Kūhiō Highway over here, it is about eighty-two (82) years old based on Kapahi Bridge when it was built. You go to over here, it is about seventy-eight (78) years old based on the mill bridge.

Chair Furfaro:

That is three (3) minutes, Joe.

Mr. Rosa: 1936. So, the talk is you have to go – it is area, the plan. Kōloa Town is not a free evacuation road. Everything has to come through Kōloa Town. You need other access roads, that road access is key, Jay. I keep emphasizing access, access. Eighty (80) years. The road system one (1) way in, and one (1) way out. I hate to say it like I just said. I have been through the experiences of tsunamis. I have seen it. Līhu'e Airport is the only airport in the State that is above the ocean level and yet, it is not safe from maybe a thirty (30) foot wave. Līhu'e Airport is high ground. Honolulu Airport, Kahului, Hilo are all in the tsunami area. That is the kind of things that you people have to think about – for people to evacuate. You have to evacuate your tourists. Who is going to have priority, the locals or the visitors? Where are they going? In Līhu'e, you have Kaua'i High School Gym, you have the Līhu'e Neighborhood Center, and you have the Līhu'e Civic Center over here. Who has priority? You have to think about how you are going to feed those people also. There are a lot of things that Civil Defense – you have to tackle one (1) item at a time. The traffic is going to be a mess. I hate to say it because I know one time we got stuck when we had a tsunami alert, we were working out in Wainiha at that time, the police came looking for people and their sirens were blowing and everything, to get home to Līhu'e. That is what the problem was. We had to get home, but they let us go because we were with the State Department of Highway truck to come in. They said we were called back to come in from our office. So, we got through, but those were the chances we have to take. Just do not say, "Do this, do this." What is the actual plan? Līhu'e area, where are they going? Kaua'i High School Gym, the Līhu'e Civic Center. You have the Līhu'e Neighborhood Center maybe, yes, you can go evacuate it, but where are the plans and how are tourists going to know where they can go for those places? There has to be more definite details. Work one (1) thing at a time. They try to scratch here, scratch there like a bunch of chickens. You cannot do that when it comes to disasters, floods, tsunamis, and hurricanes. There are two (2) different scenarios. So, Civil Defense has to look at it for tsunamis...

Mr. Watanabe:

Six (6) minutes.

Mr. Rosa:
the problem.

...tackle the problem, and hurricanes, tackle

Chair Furfaro:

That is you six (6) minutes, Joe.

Mr. Rosa:

Thank you. Talk is cheap.

Chair Furfaro: Anyone else want to expand on this? Thank you, I am sure with the testimony we got from Mr. Rosa, Civil Defense people can take a lot of things, questions back to the State, which is empowered to come up with this plan as pointed out about Līhu'e Airport's elevation and other benefits we do have here.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: This is a motion to receive, and then I would like to go to the Housing Agency now – Elderly. I am sorry.

The motion to receive C 2014-52 for the record was then put, and unanimously carried (*Mr. Bynum was not present.*).

Chair Furfaro: Now, I would like to go to Elderly.

There being no objections, C 2014-55 was taken out of order.

C 2014-55 Communication (02/10/2014) from the Executive on Aging, requesting Council approval to apply for, receive, and expend funds from the Continuation Grant awarded by the Corporation for National and Community Service to the County of Kaua'i's Agency on Elderly Affairs, Kaua'i Retired and Senior Volunteer Program (RSVP) in the amount of \$91,135, to assist the Kaua'i RSVP in carrying out a national service program as authorized by the Domestic Volunteer Services Act of 1973, as amended, (Title 42 United States Code (USC), Chapter 22): Mr. Rapozo moved to approve C 2014-55, seconded by Ms. Yukimura.

Chair Furfaro: We have a motion and a second. Ladies, may I ask you to introduce yourselves?

There being no objections, the rules were suspended.

LUDVINA KEALOHA TAKAHASHI, Executive on Aging: Kealoha Takahashi, Executive with the Agency on Elderly Affairs.

CELIA MELCHOR-QUESTIN, Kaua'i Retired and Senior Volunteer Program (RSVP) Director: Celia Melchor-Questin, RSVP Director.

Chair Furfaro: Thank you. Now, first before we go any further because I need to step out to make a call, there is a problem on the communication here.

Ms. Takahashi: Yes.

Chair Furfaro: Dealing for the amount to be applied for, received, and spent. This communication reflects ninety-one thousand one hundred thirty-five dollars (\$91,135), but the reality is it is sixty-two thousand eight hundred forty-seven dollars (\$62,847)?

Ms. Takahashi: That is correct.

Chair Furfaro: Okay. Could we make the record reflect that, please? Then, on that note, I am going to turn this portion of the meeting briefly over to the Vice Chair, and I am going to give you the floor. Welcome, ladies. You have the floor.

Chair Furfaro, the presiding officer, relinquished chairmanship to Mr. Chock.

(Chair Furfaro was noted as not present.)

Ms. Takahashi: Thank you. As Chair mentioned, I just wanted to make sure that the requested amount is for sixty-two thousand eight hundred forty-seven dollars (\$62,847). I have shared with you, our budget for that grant. The ninety-one thousand one hundred thirty-five dollars (\$91,135) is actually our County share for the program. That is all that I have. Thank you.

Mr. Chock: Great. Councilmembers, any questions regarding this communication? Councilmember Yukimura.

Ms. Yukimura: As usual with things that come from the Agency, it appears to be a very well-done grant. So, I want to thank you and I think we are very familiar with many of the services you provide through your volunteers. You have one (1) downstairs today, Jimmy Oyadomori, right? Thank you. I just wondered, since Civil Defense was on the agenda earlier, whether Civil Defense is part of your RSVP program.

Ms. Melchor-Questin: Yes, disaster preparedness is one of the focus areas of the program.

Ms. Yukimura: Okay.

Ms. Melchor-Questin: So, I will probably be coordinating with them.

Ms. Yukimura: Okay, because at the last RSVP recognition luncheon, there was a gentleman whose wife was allowed into the party, but not the gentleman because he said his work with Civil Defense had not been recorded or something. So, I think there is just some glitch there that has to be – it was kind of sad to have one (1) member of the couple not there.

Ms. Takahashi: They do have a requirement of forty-eight (48) hours.

Ms. Yukimura: Right.

Ms. Takahashi: And then they...

Ms. Yukimura: But he said that some of his hours were not recorded or slipped through the cracks. I am really impressed that you work on performance measures and do you have reports that report on the performance measures after the year is over?

Ms. Melchor-Questin: Yes, we do. We submit progress reports every six (6) months.

Ms. Yukimura: Oh, I see.

Ms. Melchor-Questin: To the funder.

Ms. Yukimura: Are you finding that your performance is meeting your projected goals?

Ms. Melchor-Questin: Yes.

Ms. Yukimura: Okay, good. Thank you.

Mr. Chock: Any further questions, members? I just wanted to also recognize the RSVP program. I had a chance to get to the event and it was a great event put on by you folks and the program itself displaying many merits. Also, I wanted to thank you for the complete rundown of the grant that is in question here or in the communication. I think it serves as a representation of maybe to others who are coming to us with grants, the kind of information that we need. I think more is better than less at this point so that we can thoroughly – we cannot see everything, but we will get to whatever we can. To have the information here is really important. So, I want to thank you for that as well.

Ms. Takahashi: I just want to mention that Celia worked really hard on that and got it in on time.

Mr. Chock: Thank you. Councilmember Yukimura.

Ms. Yukimura: Did you write the grant, Celia?

Ms. Melchor-Questin: Yes.

Ms. Yukimura: Oh, excellent. You worked through stations with non-profits and government agencies. Is that correct?

Ms. Melchor-Questin: Yes.

Ms. Yukimura: So, if there are non-profits who could use volunteers, is there a way for them to apply to become an RSVP station?

(Chair Furfaro was noted as present.)

Ms. Melchor-Questin: Yes. We do have a Memorandum of Understanding (MOU) with stations who want to have volunteers from RSVP.

Ms. Yukimura: So, if there are non-profits out there who would like to partner with you, then they would call you?

Ms. Melchor-Questin: They would contact us.

Ms. Yukimura: And work with you to develop the MOU and the understanding about how the volunteers would be used?

Ms. Melchor-Questin: Yes.

Ms. Yukimura: Okay, that is very good. In capacity building, do you do any work with the Community Emergency Response Team (CERT) program in Civil Defense?

Ms. Melchor-Questin: Yes, that is one (1) agency that I also need to work with. I really have not started work with them yet, but I will.

Ms. Yukimura: And you have been on the job for how long?

Ms. Melchor-Questin: It will be one (1) year on March 1st.

Ms. Yukimura: Right. So, you are pretty new. Well, thank you for your good work.

Mr. Chock: Councilmembers, if there are no further questions, I want to thank you for your time.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Chock returned Chairmanship to Council Chair Furfaro.

Chair Furfaro: Okay. Thank you, Vice Chair Chock. I am sorry I stepped out. Did we amend the item? No? Okay. We are going to have to ask to amend the amount, which was requested to sixty-two thousand eight hundred forty-seven dollars (\$62,847).

Ms. Yukimura moved to amend C 2014-55 to sixty-two thousand eight hundred forty-seven dollars (\$62,847), seconded by Mr. Rapozo.

Chair Furfaro: Thank you. And that is acceptable with you folks? That is the corrected amount? No further discussion.

The motion to amend C 2014-55 to sixty-two thousand eight hundred forty-seven dollars (\$62,847) was then put, and unanimously carried (*Mr. Bynum was not present*).

Chair Furfaro: Now, we will go to the vote on the main item as amended, but I need to ask if there is any public testimony first. Glenn.

There being no objections, the rules were suspended to take public testimony.

Mr. Mickens: Thank you, Jay. For the record, Glenn Mickens. I just want to sincerely thank this young lady for writing that grant. There is, I guess, thousands of grants out there and I understand what tremendous work it is to be able to write those grants. So, they are worth their weight in gold and I do not know what this young lady is making, but she is worth more money. Thank you.

Chair Furfaro: Thank you, Glenn. Congratulations on your one (1) year anniversary coming up here.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Members, we have an amended amount here and I guess I need a new motion as amended.

Ms. Yukimura: No. It is pending.

Mr. Watanabe: It is on the floor.

Chair Furfaro: It is pending?

Mr. Watanabe: It is on the floor.

Chair Furfaro: Any further discussion? Roll call vote, Rick.

The motion to approve C 2014-55 as amended was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chock, Hooser, Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Mr. Bynum was not present.)

Chair Furfaro: Thank you very much. Thank you for all of your work. Thank you. I believe we want to go to the Finance preview at this point.

C 2014-53 Communication (02/05/2014) from Councilmember Bynum, requesting the presence of the Director of Finance and the Budget & Purchasing Director, for a broad discussion and presentation on the budget trend analysis and identified challenges for the upcoming Fiscal Year 2014-2015 budget session for the County of Kaua'i.

Chair Furfaro: Let me just make a query here with the staff. Is Mr. Bynum in the building and does he want to be called up for this? Oh, Eddie went to call him. Very good. Come right up, Steve.

Mr. Kagawa: I just wanted to make a comment. I mean, it seems like we are having these presentations and they to me, belong on Committee. It does not have to be a certain way, but I just find myself thinking that if we do everything that belongs in Committee now, when we reach the Committee we will not have anything. Thank you.

Chair Furfaro: So, obviously, if there is any work on your presentation to do, I am going to send it back to Committee. Let us see what you have to share with us.

There being no objections, the rules were suspended.

STEVEN A. HUNT, Director of Finance: Thank you. For the record, Steve Hunt, Director of Finance and alongside me, Ernie Barreira, Budget & Purchasing Director. This was a presentation that has been made at our Kaua'i County Team (KCT) meeting to all of the Department Heads as well as on individual meetings with Councilmembers and has been requested to be brought to the floor I guess, for further discussion. It essentially gives us some historical perspective on budget trends and what we have done in terms of fund balances and managing the budget in relative terms of revenues and expenditures.

(Mr. Bynum was noted as present.)

Mr. Hunt: Page 2 of this presentation details a three (3) year perspective, actually four (4) now, for Fiscal Year 2010, Fiscal Year 2011, Fiscal Year 2012, and Fiscal Year 2013. This is the revenue comparison on a monthly basis. This is an illustration just to show as revenue comes in, it is not as a straight line across the year. It is very spikey. We have our two (2) largest deposits coming in and peaking in August and February, which coincide with our Real Property Tax (RPT) payments. Our biggest payments come in August because that is when some people actually make full year payments as opposed to two (2) semi-annual payments. Then of course, we do get Transient Accommodation Tax (TAT) revenue here in December and then again in June. So, those are our biggest sources of General Fund revenues that come into the County.

Then, this just graphically illustrates the revenue comparison from year to year. We had a high in Fiscal Year 2010, dropped down to a low in Fiscal Year 2011, and then it somewhat stabilized in Fiscal Year 2012 and Fiscal Year 2013. With some of the revenue enhancements we did for Fiscal Year 2014, the anticipation is to be heading back in that direction.

This is a graphical depiction of a four (4) year trend on expenditures. You can see in Fiscal Year 2011, we had some very big spikes where we were not spending money, which can create challenges both from a cash flow perspective when we have these highs and lows coming up. It is much better to have a more even straight line expenditure. Also, from just a job management when you are getting into purchasing going through a lot of those transactions, keeping them spread out on a monthly basis certainly helps purchasing and their workload requirements as well. In here, typically for Fiscal Year 2013, which we just completed, we have sort of a lesser gap in variance from month to month. It tends to run between about twelve million dollars (\$12,000,000) and eighteen million dollars (\$18,000,000) in expenditures per month.

Then here again, just on a bar chart, shows how expenditures have increased and then again somewhat stabilize between Fiscal year 2012 and 2013. Now, the expenditures here also include Bond Funds.

Again, here showing as depicted against the revenue, you will see revenue short of the expenditures, but because Bond Fund balance does not show as a revenue source, it is actually using. We balance that gap by just drawing down on our essentially savings account with fund balance to make up some of that difference. So, although the revenues again have somewhat declined and the expenditures have exceeded, a lot of that is drawing down fund balances for moneys that we banked when we did our Bond issuance.

Again, including Bonds, this shows sort of the overall trend of revenues and expenditures. As you can see from about Fiscal Year 2004 through Fiscal Year 2009, we had excess revenue in relation to our expenditures, but from Fiscal Year 2009 through Fiscal Year 2013 we have had reversed that trend where we are expending more than we are receiving. Again, this includes Bonds. The next slide will remove the Bonds.

This shows without the Bonds where our expenditures relative to revenue has been. Again, that nexus where we crossed over was around Fiscal Year 2010

and then since then, we have been expending more than we have been receiving in revenue. These are all funds with the exception of the Bond Funds.

This is specifically speaking to the General Fund revenues and expenditures. Again, we had quite a bit of difference beginning in Fiscal Year 2010 where our revenues far exceeded our expenditure in General Funds and that trend has shrunk and still showing out to Fiscal Year 2013. We are still showing more revenue than we have expenditures. This is however, prior to transfers out because the General Fund supports several other funds, some are enterprise, some we actually just fund as subsidy.

Inclusive of the transfers out when we get to the net transfers in General Funds, again, Fiscal Year 2010 we were fine, Fiscal Year 2011 we were already upside down, Fiscal Year 2012 and Fiscal Year 2013 again, we are spending more because moneys are being moved out. The biggest source of those funds, they are going to the Debt Service Fund, which is roughly about nine million five hundred thousand dollars (\$9,500,000); Solid Waste Fund, which is ranged anywhere from about eight million dollars (\$8,000,000) to ten million dollars (\$10,000,000) a year; Golf Fund has been running about one million dollars (\$1,000,000) a year; Public Access Fund which is now about, we just increased that from half percent ($\frac{1}{2}\%$) to one and a half percent ($1\frac{1}{2}\%$). I believe that is about one million three hundred thousand dollars (\$1,300,000) or one million four hundred thousand dollars (\$1,400,000) now. So, those are the transfers out that we are taking General Funds to help subsidize.

On the Departmental level, this is again, the General Fund comparing Fiscal Year 2010 to Fiscal Year 2013. As you can see, we had a substantial decline in Real Property Tax revenue, about nine million three hundred sixty thousand dollars (\$9,360,000) in decline in revenue between those two (2) years. Also, looking at the interest earned back in 2009, Fiscal Year 2010, banks were actually paying interest on money. Now, it is the opposite. We have more transactions than we generate in interest and that is merely a function of what the interest rate and the transfer rates are at the Federal level. There is just no revenue. Combined, we are also spending down our Bond Funds, which has been our primary deposit base as we roll out new Capital Improvement Projects (CIP) and get more infrastructure. We are actually spending down those funds. So, a combination of a declining balance and basically very little basis points on our money that is deposited, we have more transactions than we actually show as a negative interest earned in Fiscal Year 2013.

Mr. Rapozo:
that item, the interest.

Mr. Chair, I have a clarifying question on

Chair Furfaro:

Sure.

Mr. Rapozo:

Is that okay?

Chair Furfaro:

Go right ahead, Mr. Rapozo.

Mr. Rapozo:
money to save money?

Steve, so you are saying that it is costing us

Mr. Hunt: It is costing us money to hold money in our banks because of whatever basis points that we are getting on interest. There is

virtually no interest being paid, but transactions that we run our payroll checks and everything. So, everything that we actually get charged on fees for, we actually have a negative balance.

Mr. Rapozo: Okay, but we do not get charged. I guess I am having a difficult time understanding. Interest would not be interest-less fees. I mean, we had to have earned some interest.

Mr. Hunt: Yes, that would be the net if you will.

Mr. Rapozo: Okay, so what...

Mr. Hunt: I do not have the breakdown of what the fees were versus the interest.

Mr. Rapozo: Okay, that is kind of what I am interested in.

Mr. Hunt: Okay.

Mr. Rapozo: I mean, we may be paying too much fees as opposed to not getting paid enough interest. I know we have to have – you cannot have a negative number in interest unless you...

Mr. Hunt: No, correct.

Mr. Rapozo: ...unless you run below zero (0).

Mr. Hunt: You are absolutely right. This is the net in interest.

Mr. Rapozo: Okay, because if that is the case, then we need to definitely change banks or just store it in a vault at the County Building because to lose one hundred twenty thousand dollars (\$120,000)...

Mr. Hunt: No, it is not interest alone. It is the service of having the banks.

Mr. Rapozo: Okay, then definitely we should change that line because I just think that is...

Chair Furfaro: We should change the description.

Mr. Rapozo: Yes. It should be bank – I do not know. Whatever or add...I get it though. Thank you.

Chair Furfaro: Did you hear, Steve?

Mr. Hunt: Change the description.

Chair Furfaro: You should change the description.

Mr. Hunt: Okay. The next is showing expenditures by Departments. Again, if you kind of look at the larger ones, these are the changes between Fiscal Year 2010 and Fiscal Year 2013. In gross dollars, these are the four

(4) largest which would be Police, Fire, Prosecuting Attorney's, and County Clerk in that order. Then of course, on a percentage basis Prosecuting Attorney's would be first, then Personnel, and then followed by Civil Defense. Now, there are certainly explanations for a lot of those. Starting with your own, County Clerk's. Prior to Fiscal Year 2010 there was no Office of the County Auditor. So, a lot of that expense is incorporated into the addition of the additional Division. Prosecuting Attorney's, this essentially is continuance of staff that has increased between those two (2) years. Police, on a percentage basis, have not necessarily exceeded their annual I guess, growth rate. It has been relatively flat other than the eighteen (18) new positions that were just added. So, we will see some of that in this year and likely more in Fiscal Year 2014 as far as that number. Same with Fire, the Kaiākea Fire Station, there was new staffing, a new structure, and a new building that was added. So, part of that is incorporated in that change. On the Personnel side, although it shows in Personnel's budget as a large increased, staffing wise, it just took some of these potential decreases were moved into those. So, the staff members were re-classified as employees of Personnel. Similarly, Civil Defense, that incorporate now the 800 Mhz cost for the emergency radio, both the body as well as the maintenance of the contracts that are associated with that. So, it is hard to compare year to year necessarily right across, but these were the major contributors to some of that growth. As a whole, over this three (3) year period, it was about four point two three percent (4.23%) a year growth for the County as a whole.

Chair Furfaro:

What was that number again?

Mr. Hunt: Four point two three percent (4.23%), which is simply just dividing that twelve point seven percent (12.7%) growth overall by the three (3) years.

Chair Furfaro: What was the consumer price index for the last two (2) years? Oh, we can get it. Thank you.

Mr. Hunt:

Sure.

Chair Furfaro: Excuse me. Steve, let me ask you, when we get close to budget as we show these expanded Departments by Charter Amendment and so forth, can you put the footnotes on the bottom of this piece? For example, the County Clerk's Office, added the Auditor. The Audit Department is at what actual? So, that we can actually see descriptions of the variances. I would appreciate that.

Mr. Kagawa:

Clarifying question.

Chair Furfaro:

Go right ahead.

Mr. Kagawa: How long back do we have these charts like this comparison? Going back to the 1990s?

Mr. Hunt: Well, good question. These were prepared specifically for this presentation. So, I do not believe this was done. We have done the prior year, but I do not think beyond that we were doing these three (3) type analysis. So, it could be done, but it would take time and resources to go back and prepare them for prior years.

ERNEST W. BARREIRA, Budget & Purchasing Director: We have their reports that were provided since the Budget Team was convened and as Steve pointed out, the data is available, but it is not readily available at this point.

Chair Furfaro: Clarifying. This was a request from the Council three (3) years ago to start looking towards trend analysis versus comparing budget to budget to budget to budget.

Mr. Kagawa: I mean, if I can clarify my clarifying. The obvious, huge gap you see is you just look at Police and Fire. I wanted to go back. I do not know if you can just show Police and Fire and do a comparison on those two (2) because I really want to see. Has this growth been occurring from back in the 1990s and I guess how much? If that puts a lot of burden on your Department, then it is up to you really whether that is a priority. I am worried. I see the mainland, actually some Counties are going to volunteer fire because they are facing similar things as we are headed to, where the government is just broke and they are scaling back. I do not know if you folks watch Chicago Fire. It is a show, but it is a reality. They are actually shutting down firehouses because the government is broke. I just cannot see us going up one million dollars (\$1,000,000) every year and this does not even reflect the huge salary increases for Police and Fire next year.

Mr. Hunt: You are right. This is Fiscal Year 2013, so even this year, we have additional increases to that. So, you are correct in that. Getting into the Fund Balance. Again, this shows the total Fund Balance that we began from Fiscal Year 2012. This was again, from the Comprehensive Annual Financial Report (CAFR). It takes out the restricted which has to do with the landfill closure and then we have the encumbrances and then the disaster relief portion which was later used for some of the FEMA efforts. Again, here the unappropriated surplus that was put into the Fiscal Year 2013 budget and then actual CAFR because that was done prior to CAFR at budget time. Then after CAFR, an additional balance was added to the budget. So, the total draw was about eighteen million five hundred thousand dollars (\$18,500,000) and then we also had moneys that went into our Self Insurance provision. So, that left us with the fifteen million four hundred thousand dollars (\$15,400,000) that we began our Fiscal Year 2014 budget with.

A year later, Fiscal Year 2013 CAFR complete. Again, about eleven million dollars (\$11,000,000) draw in total Fund Balance. We still have our moneys reserved for foreclosure, our new encumbrances. Now our disaster relief is down to two million six hundred thousand dollars (\$2,600,000). We used eleven million seven hundred thousand dollars (\$11,700,000) to balance the budget and of course as we know, there will be more draw on the Unassigned Fund Balance because there are Money Bills ongoing now, which I will show in a future slide here coming up. Then the Self Insurance provisions to keep us at our required levels. So, we have essentially twelve million eight hundred thousand dollars (\$12,800,000) going into the Fiscal Year 2015 budget from which we can use to balance the budget.

Chair Furfaro: Steve, question for clarification.

Mr. Hunt: Sure.

Chair Furfaro: On the landfill closure restricted use.

Mr. Hunt: Yes.

Chair Furfaro: There has to be about a ten million dollars (\$10,000,000) or eleven million dollars (\$11,000,000) balance.

Mr. Hunt: I believe it is about ten million one hundred thousand dollars (\$10,100,000). There are committed funds that are in – there are two (2). I believe there are two (2) other sources. One is FEMA funding. I believe there is about one million six hundred thousand dollars (\$1,600,000) or one million eight hundred thousand dollars (\$1,800,000) in FEMA and then about another seven point something million dollars that is not committed.

Chair Furfaro: Okay, but let us just put it this way. From my understating, we will need to come up in the seven (7) years for the landfill to close, we will need to be about twenty-two million dollars (\$22,000,000) in that reserve account? We are putting away four hundred fifty thousand dollars (\$450,000) a year for the landfill closure and management. We are about eleven million dollars (\$11,000,000) of that seventeen million dollars (\$17,000,000) or eighteen million dollars (\$18,000,000) now, right?

Mr. Hunt: Yes, I believe ten million something is correct and I think that number is actually increased from the twenty-two million dollars (\$22,000,000) based on the re-pricing that we got for this last CAFR. Public Works would be able to explain that better.

Chair Furfaro: Does that have to deal with the fact that the liner is now an issue?

Mr. Hunt: No, it has nothing to do with the liner. That is just the costing in today's dollars to what it would...

Chair Furfaro: Okay, I figured this much. I just wanted clarification.

Mr. Hunt: Right.

Chair Furfaro: So, if that number went up large, be prepared to tell us it went up and for what reasons.

Mr. Hunt: And I think in the budget, when we get to the transfers out, you will probably see that four hundred fifty thousand dollars (\$450,000) annual contribution being requested at a higher amount to meet those obligations.

Chair Furfaro: Well, that is obvious right now. It probably need to be higher if the obligation has increased.

Mr. Hunt: Yes, and I believe the methane gas extraction was included in that cost now as well, which is good because I think we can get to that earlier than the closure.

Chair Furfaro: But you have not shown the recovered gas as any part of the revenue portion?

Mr. Hunt: Not yet.

Chair Furfaro:
potential of a revenue source, right?

So, that credit is sitting out there for the

Mr. Hunt:
an asset.

At a future date, that is correct. It would be

Chair Furfaro: Okay.
Mr. Hunt: This is the comparative year. The Fund Balances again, just Fiscal Year 2012 and Fiscal Year 2013 end in about the eleven million dollars (\$11,000,000) decline in Fund Balances. Again, sort of the detailed analysis on each line item resulting essentially in our available Fund Balance being about two million six hundred thousand dollars (\$2,600,000) less than we had when we did the Fiscal Year 2014 budget.

Mr. Rapozo: One (1) more question, Mr. Chair.

Chair Furfaro: Go right ahead.

Mr. Rapozo: Do you have the numbers since 2010? All of your other comparisons were three (3) year comparisons. This one is only one (1) year. Do you know offhand what the 2010 Fund Balance was?

Mr. Hunt: I want to say sixty-eight million dollars (\$68,000,000), but I am not sure.

Mr. Rapozo: Sixty-eight million dollars (\$68,000,000)?

Mr. Hunt: Yes, correct.

Mr. Bynum: Sixty-eight million one hundred three thousand dollars (\$68,103,000).

Mr. Rapozo: So, I mean that just goes to show that we are spending a lot more of our Fund Balance since 2010, quite a bit more.

Chair Furfaro: Because we are crunched for time going into the lunch period, I am allowing questions as we go forward. Mr. Hooser, you have the floor.

Mr. Hooser: Back to the landfill closure issue.

Mr. Hunt: Yes.

Mr. Hooser: Part of that is for ongoing monitoring or is this for the physical closure?

Mr. Hunt: Both.

Mr. Hooser: My question is, could that not be paid for with Bond money like a CIP project rather than cash as we are setting aside here?

Chair Furfaro: May I expand on that question?

Mr. Hunt: Sure.

Chair Furfaro: Mr. Hooser, I think that is an excellent question and that is why I asked about the revenue for the recovered gas because the recovered gas could possibly be earmarked for the payment of a Bond on the cost of the closure. So, I thought that an excellent question, Mr. Hooser.

Mr. Hunt: I do not have an answer just yet. I know on the landfill itself, we cannot use Bonds because we have a third party managing it. So, you could do an additional issuance of an Alternative Maximum Tax (AMT) type Bond rather than tax exempt and if you could identify the debt service source to do that, then that might be an option, but I do not want to commit to that without consulting with our Bond Counsel.

Mr. Hooser: Okay, but it sounds like it is an option.

Mr. Hunt: Possibly.

Mr. Hooser: Money management option if you would. Thank you.

Mr. Hunt: Yes. This is the Fund Balance that was carried from Fiscal Year 2013 end. These are what I know as of today, our requested Money Bills, and this again, you just spoke earlier today on which combines both the request for the five hundred thousand dollars (\$500,000) Special Counsel plus the additional seventy-five thousand dollars (\$75,000). I do not want to rehash that, but that is the request that is on the table. Replenishing the Police and again, this is both the Other Post-Employment Benefits (OPEB) and the committed reserve that we took from to cover what was paid out – I do not want to say pay out, that we identified as coverage for the raises. Now that we have the certified CAFR, the intent was to replenish those because we short-funded their ability to fund OPEB for the year and we wanted to put back moneys into the reserve that we took to help cover those raises. So, again, these are Money Bills that are on the table, I believe even today. Then there is the Police overtime request that has come before, a Worker's Compensation, Firefighter raises which because of the timing of the negotiations with this one and the signing of the agreement, were not funded with these prior sources. So, we are going directly to the Unassigned Fund Balance to request to fund the Firefighter raises. The landfill liner and there could be some additional costs. This is just more exploratory and potential repair money. We are not sure the extent on that. If it is just one (1) liner or both liners that are perforated. The recycling programs, again, these are moneys that were not encumbered by the end of the Fiscal Year 2013 budget and are ones that we want to continue to contracted out services for. So, the request is to come back to fund those. The pumper truck, which we have discussed as well. Funding the pumping of our parks, the septic systems, and the 100th anniversary of the County Building. That is what I know as of today that has been requested, not all approved yet, but has been requested on draws on the Unassigned Fund Balance. That being said, if those are in fact approved, that leaves us about seven million five hundred thousand dollars (\$7,500,000) to begin our Fiscal Year 2015 budget with.

This is again, what I view as our budget challenges as we go into Fiscal Year 2015 and I want to make some assumptions here when we go through this. The assumptions are that this is a flat budget, that we are only accounting for the Collective Bargaining and Money Bills that are going to be drawn upon in Fiscal Year 2014. It does not consider fully funding any short-funded positions that were done in Fiscal Year 2014, any new programs or programs that were short-funded. I

know that there were some that they had for a year, but it surpassed two (2) fiscals and they termed it out with Fiscal Year 2014. So, they are really short-funded, as well as any regulatory requirements or loss or reduction in grant funding. None of that is accounted for. This is just our flat budget as we go in. Initially right out of the gate, we had Fund Balance in our Debt Fund of two million one hundred thousand dollars (\$2,100,000) that had to do with a refinance (refi). We essentially used all of it for Fiscal Year 2014, so for Fiscal Year 2015 we are not going to be starting with a Fund Balance, but having to fund our entire Debt Service for the Bonds which is about nine million five hundred thousand dollars (\$9,500,000). The unfunded portion of Collective Bargaining from Fiscal Year 2014, again, these are Unit 11, Unit 12, and Hawai'i Government Employees Association (HGEA) 13. Those ones were not ratified prior to our Fiscal Year 2014 budget so we did not have funding for that. We are going to need it both in Fiscal Year 2014 and then again in Fiscal Year 2015, plus the additional raises for all Collective Bargaining Units that were involved. Some of that was included in the Fiscal Year 2014 and some was not. So, the combination of the two (2) reflect those potential Collective Bargaining impacts. Puhi Metals, again, this was a two (2) year, two (2) fiscal. We spent a little over nine hundred thousand dollars (\$900,000) or mid-nine hundred thousand dollars. I do not have the figure before me, but was spent in Fiscal Year 2013 and there was a request for one million three hundred thousand dollars (\$1,300,000) in Fiscal Year 2014. I believe it may exceed that amount and so I will not be able to recuperate all of the one million three hundred thousand dollars (\$1,300,000) as a give back in Fiscal Year 2015. So, there will probably some money requested in the tune of about eight hundred thousand dollars (\$800,000) to continue the cleanup for Fiscal Year 2015, but again, only two million one hundred thousand dollars (\$2,100,000) has been approved thus far at Council. So, Public Works will be here asking to extend that cap to continue the cleanup, but we would get a plus of that because it hopefully was supposed to be one (1) time cleanup, but it is extending over multiple fiscals. We will get about five hundred thousand dollars (\$500,000) back in Fund Balance if you will, for a non-recurring cost. That leaves us a shortfall of about nine million two hundred thousand dollars (\$9,200,000) just on these Fund Balance issues. Again, as we look at our existing twelve million eight hundred thousand dollars (\$12,800,000) that we started with our Unassigned Fund Balance and we subtract off all of these requested Money Bills, that gets us to the seven million five hundred thousand dollars (\$7,500,000) as compared to the eleven million seven hundred thousand dollars (\$11,700,000) that we used for Fiscal Year 2014. That results in about a four million two hundred thousand dollars (\$4,200,000) upside down with the combination of both the nine million two hundred thousand dollars (\$9,200,000) and the four million two hundred thousand (\$4,200,000), our shortfall is about thirteen million four hundred thousand dollars (\$13,400,000). Possible increase from Real Property Taxes, four million five hundred thousand dollars (\$4,500,000). This actually might be conservatively low. I think well may have some more revenue coming in on that, but for now, this is what I had to work with and that was the eight million nine hundred thousand dollars (\$8,900,000) that we were chasing. Again, flat budget. No additional transfers out, no additional costs. Just kind of a year-to-year comparison on budgets.

As we go forward, our biggest priority is to reverse the trend of the expenditures exceeding revenue and establish a sustainable budget. We are trying to do it through a balanced approach, which is both increasing revenues and decreasing expenditures. We would also like to have a Fund Balance at some point. We need to certainly account for General Fund not only meeting the revenue and expenditures, but accounting for the transfers out and getting that to a parity. As

we get to the future, I think we should also be looking at a Reserve Fund. Having a Rainy Day Fund that accounts for periods and I think GFOA recommends about two (2) months of expenditures as being that target, which would be somewhere in the neighborhood of about sixteen million dollars (\$16,000,000) to eighteen million dollars (\$18,000,000) as a target. We are not going to get there in a single swoop, but I think we could start considering a sinking fund to build up to that amount. That concludes the presentation.

Chair Furfaro: Steve, I would like to focus the discussion in the beginning first and then we can continue this at the end of the day. I did not see other than talking about that you might be soft on the property tax forecast. The four (4) Chairmen of the Counties, we were in Honolulu lobbying for an increase in TAT. I know the Senate version is to keep it at seven and a half percent (7½%), the House version is the nine percent (9%), but you made no mention of any thought we were going to recover any more of the TAT.

Mr. Hunt: I also was at the Capital yesterday testifying.

Chair Furfaro: I know.

Mr. Hunt: And at this point, I do not think we can count on it. We cannot budget for it.

Chair Furfaro: I did not say you can count on it. I said I did not hear anything.

Mr. Hunt: Correct.

Chair Furfaro: The House, Joe Souki, told me that they will support getting the County more TAT. The Senate now, is about – it used to be three (3) groups. It is now about five (5) groups because everybody in there is running for reelection to some other office. That is just the way I see it.

Mr. Bynum: Yes, that it true.

Chair Furfaro: Did you have any hope that we were going to get anything more and our thirteen million four hundred thousand dollars (\$13,400,000)?

Mr. Hunt: Hope, yes, but putting it into a budget, no. I do not want to get into the Fiscal Year 2015 budget because that is not on the table here, but...

Chair Furfaro: Well, that is my decision.

Mr. Hunt: Yes.

Chair Furfaro: Not yours.

Mr. Hunt: I understand.

Chair Furfaro: If I want to talk about it, somebody can sanction me for talking about it. I did not see anything in there that talked about a

wish list on opportunities to recover. Like for floating a bond money that would be paid for by the potential energy recovery. My first question, I am sticking with revenues again, is there anything that you can put up on the board there that talks to us about revenue opportunities other than the property tax?

Mr. Hunt: Yes, I believe we are going to be discussing the Solid Waste Tipping Fees and the Vehicle Weight again in some way, form, or fashion. In addition to that, I would love to see the TAT revenue, but again, not something I will be forecasting in the budget until I have news to the contrary.

Chair Furfaro: I do not want to have that discussion. I am just saying it is not on the radar screen here. Then also, two (2) years ago we gave a refund. We lifted the cap and we gave a reduced rate to primary homeowners, but yet, the answer to the question about the consumer price index for the last two (2) years, it has increased three point five percent (3.5%) between the last three (3) years. Has there been any discussion at the Administration level about re-evaluating the current prices just to reflect the consumer price index because we took a beating on the labor negotiations with Police and Fire and other unions? Has there been any discussion of that and what that might equal?

Mr. Hunt: Are you talking about – I am just not quite sure what the question is. Are you talking about the rates?

Chair Furfaro: We did a poor job on percenting our condition when Honolulu negotiated. Our labor increase were far more than I think any of us would predict, but as the cost of doing business goes up, is there any plan to say at least we could recover the consumer price index on that because those are what increased in the way of the cost of gas or food. Those costs increased for us too. Has there been any discussion on that at the Administration? Not here at the Council.

Mr. Hunt: Right.

Chair Furfaro: I am trying to figure out what kind of balanced budget you are sending us.

Mr. Hunt: So, you are talking about essentially the Real Property Tax rates being tied to an inflationary index to keep pace?

Chair Furfaro: We have returned property taxes two (2) years ago.

Mr. Hunt: Right.

Chair Furfaro: And now I am saying just to keep up with the inflationary rates, is the Administration thinking in those terms as to what you have to send over to us? You have to send over to us a balanced budget.

Mr. Hunt: That is correct.

Chair Furfaro: Is that not on the radar screen?

Mr. Hunt: I am still not understanding the nexus between the consumer price index and what you are asking in terms of revenue. Are you saying...

Chair Furfaro: Does consumer price index include things like fuel?

Mr. Hunt: Yes.

Chair Furfaro: Okay. They include those things, right?

Mr. Hunt: Correct.

Chair Furfaro: So, those are costs for the County in our Operating Budget that also increased.

Mr. Hunt: Yes.

Chair Furfaro: Just to keep a level playing field, are we considering the fact that we might have to increase some portion of property tax to recover our operating costs?

Mr. Hunt: I think we are looking at property taxes as a whole. I do not think we are necessarily tying each rate to an index, is the bottom line.

Chair Furfaro: Okay. And that comes over to us on Mach 15th?

Mr. Hunt: 14th.

Chair Furfaro: 14th, because the 15th is on a weekend this year?

Mr. Hunt: Correct.

Chair Furfaro: Okay. Mr. Bynum.

Mr. Bynum: As I understand you correctly, you want to go to lunch soon. So, I am just going to...

Chair Furfaro: And we have commitments after lunch too.

Mr. Bynum: Right, but then we will come back to this item?

Chair Furfaro: Yes.

Mr. Bynum: So, I will just keep it really brief. Just to follow-up on what you were just saying. Your last slide said possible Real Property Tax increase, five percent (5%) from values. I just want to point out that that is – so you are putting that as a potential tax increase of five percent (5%) if we do not change the rates?

Mr. Hunt: Correct.

Mr. Bynum: You are telling us that taxes will go up five percent (5%). So, I think the Chair was saying I think you have accounted for more

than three point five percent (3.5%) by saying this is something you are looking at. I just want to make the point that under our Tax Ordinance, whatever you recommend, the Council has to set the rate and if we keep the rates the same, it is a conscious decision to raise taxes, correct? If we are in the environment of increased values, which we are.

Mr. Hunt: Yes, if the values increase and the tax rates stay the same, the gross tax revenues will increase.

Mr. Bynum: So, I will have a lot of questions later this afternoon, but I want to honor the Chairs request for time here and I will not do anything further right now. Thank you.

Chair Furfaro: So we all understand, that will increase because values will increase. JoAnn and then Mr. Kagawa.

Ms. Yukimura: Steve, in your slide 9 you showed revenues versus expenditures prior to transfers out. Maybe we can put that up on the screen too. You said the transfers, some are enterprise and some are just transfers? Are you following me?

Mr. Hunt: Yes. Again, the transfers out from General Fund, the major sources are Solid Waste, Debt Fund, public access/open space, Golf Fund, and then also Self Insurance Fund. Some to Wastewater as well too.

Ms. Yukimura: Is the Administration looking at these four (4) areas? I mean I do not know that we can make any changes in the Debt, but Solid Waste Fund, Golf Fund. I mean, the Open Space Fund does not have a lot of expenditures, but Solid Waste Fund and Golf Fund do.

Mr. Hunt: Yes.

Ms. Yukimura: So, is there any – and your recommendation at the end was increase revenues, decrease expenditures. So, are you folks applying that to at least Solid Waste Fund and Golf Fund and are you coming up with some plans?

Mr. Hunt: Again, we are looking at that. Solid Waste Fund is a bit of an animal to tackle because there was a recent change in the “no burn.” So, our management of green waste has escalated dramatically. So, if we are going to tackle green waste because people cannot burn anymore, there is a cost associated with that. Similarly, as Chair Furfaro brought up, as we re-priced and are looking at closure costs we have to make sure that we are escrowing enough funding for that cost. So, whether it be by a bond and debt service or whether it be a cash equivalent, we need to account for that as an ongoing cost. So, some of those costs, although we would like to see decreases and get that closer, the reality is if we are going to be looking at aggressively diversion and recycling efforts, which cost money as well as getting into – how would I say it? I guess, the management of waste, there is going to be additional costs that we are going to bear.

Ms. Yukimura: Well, what if you downsized the landfill and spend money instead on diversion?

Mr. Hunt: The existing landfill?

Ms. Yukimura: No, the new landfill.

Mr. Hunt: We have not proposed or built that yet. We are talking about managing the existing vertical expansion. We are still going to have a closure cost with that.

Ms. Yukimura: Well, diversion can help there too.

Chair Furfaro: Okay, I think we need to stay focused on what was presented because we need to take this break and we are going to come back probably around 4:00 p.m. to continue this agenda item. Mr. Kagawa.

Mr. Kagawa: Steve, thank you. When I look at slide 7, our revenues in 2005 jump from about one hundred five million dollars (\$105,000,000) to one hundred sixty million dollars (\$160,000,000) between 2005 and 2007. If you can give me some history as to what caused that huge jump of about fifty-five million dollars (\$55,000,000) over two (2) years of revenue because I think that led to the problem of us knowing that we had a lot of revenue so we started really increasing our expenditures.

Mr. Hunt: Right.

Mr. Kagawa: And then...

Mr. Barreira: Councilmember Kagawa.

Mr. Kagawa: Yes.

Mr. Barreira: I had prepared a recent rather similar response to Councilmember Yukimura's inquiry on some of the issues not relative to that year, but that information is available. We do not have it at this point.

Mr. Kagawa: No, but I guess Steve, you know the history of the Tax Department. We changed to maybe a different way of valuing properties, is that what led to that spike?

Mr. Hunt: Actually not during...

Mr. Kagawa: Between 2005 and 2007, look at that blue line.

Mr. Hunt: Yes, this essentially, and I do not know how much of it is solely attributed, but largely, that was at least on the General Fund side because values were increasing.

Mr. Kagawa: Values were increasing?

Mr. Hunt: The tax rates roughly remained the same, but at the same time, values were escalating. Again, historically they call that the "Bubble Period," but during that time, there was a sizable amount of Fund Balance that was created.

Mr. Kagawa: So, that is the reason why the blue line goes up fifty-five million dollars (\$55,000,000) or so?

Mr. Hunt: Yes.

Mr. Kagawa: Is just because of values or did we change our method of taxing?

Mr. Hunt: It was not the method. Primarily, it had to do with mostly the values and the fact that during that period there was a tremendous amount of new inventory being developed. So, there was an expansion of the base along with this appreciation in property. So, that created really a large war chest for us during that time.

Mr. Kagawa: It is just scary because if you are looking at today why we are bankrupt going into 2015, unprecedented, you just look at that. As a Historian you say, what the heck went on from 2005 to 2012? I mean we got a good explanation what happened between 2010 and 2012, is we had the County Auditor's Office added, but when you look at what happened between 2005 and 2010, it is disastrous that we went on a spending spree like you cannot believe. We just doubled our budget. Amazing. Scary. Thank you.

Chair Furfaro: Steve, before we break for lunch, can I ask you can you do these charts without bond money in there?

Mr. Hunt: I think the one beyond that, the next slide, includes it without. It says excluding the Bond Fund.

Chair Furfaro: Yes.

Mr. Hunt: So, it is included in the next slide. So, slide 8 would take out the bond revenue.

Chair Furfaro: I just want to make sure, if we are going to talk about property rates, the only impact property rates have on us is our AA+ bond rating because we have revenue to borrow money with, but when we are looking at what is going on with our spending as it relates to operational costs, I think you need to take the bond money out. JoAnn.

Ms. Yukimura: During that 2005 to 2007, was that not partly because of the Parks Department? I forget when we approved the Parks Department and when it actually started going, but I mean, somebody should do that analysis and actually see. It could also be that because we had more, we spent more. Do you know what I mean, which is not a good way to go, which is my next question? Does the Administration have a strategic plan that is serving as the foundation for our budgets?

Mr. Hunt: Well, I think the strategic plan is to get us to a point of sustainability where we are...

Ms. Yukimura: No, that is not a strategic plan. A strategic plan consists of goals that we want to achieve as a community and a strategy or something that makes you strategic especially because you have so little money to work with and so many needs.

Mr. Hunt: Again, we did survey the community and there are priorities that...

Ms. Yukimura: That is not a – a survey of the community...

Mr. Hunt: That is your opinion.

Chair Furfaro: Excuse me, I am going to break on this. I think the Councilmember is asking a question that really can be answered, a strategic question that should be answered the Mayor. You are the Finance people, okay? You are doing the reporting on the operations and so forth, but I am just saying and I think Mr. Kagawa's points are some that we need to reflect on. I just want to make sure we have numbers that reflect where money is coming from too. I do not want to be mixing bond money with spending habits because at the end of it, if you go back, then you go back and look at the net value of the County as we have added a new fire station, we added new pavilions, and ballparks. Those increased the assets as which is what bond money is used for, but I think if we are going to look at the operational parts, we need to have charts that we also know that this is without bond money, this is the property tax income. So, I am going to leave one (1) more question from Mr. Hooser and then we need to break for lunch because we are on a calendar schedule today.

Mr. Hooser: Thank you, Chair. My question is really short and it goes back to the landfill closure, just so I understand. There is four hundred ninety thousand dollars (\$490,000) that is put into a fund for the closure, is that correct?

Mr. Hunt: I believe it is four hundred sixty thousand dollars (\$460,000), four hundred seventy thousand dollars (\$470,000).

Mr. Hooser: Okay, and the balance of that fund that is sitting there now is approximately how much?

Mr. Hunt: It is parked in three (3) places. One is a FEMA Fund, one is the actual Restricted Fund of the four hundred ninety thousand dollars (\$490,000) that shows here, and then there is a third fund which is the committed for that project. I believe the total of the three (3) funds is roughly ten million one hundred thousand dollars (\$10,100,000).

Chair Furfaro: I think it is a little higher than that, and I think you can find that, Mr. Hooser, on page 28 of the CAFR that just came in.

Mr. Hunt: CAFR.

Mr. Hooser: So, over ten million dollars (\$10,000,000) and those funds are prohibited to be used for anything else or not?

Mr. Hunt: The Department of Health mandates that we have a plan for closure and in fact, when we wanted to approach the use of those funds to do the methane extraction, we had to get concurrence from Department of Health to do that and they are essentially wanting to know how the balance would be made up. So, I believe we are looking at a more aggressive amortization of the remaining balance of what the closure cost would be, but then we would have to factor in what potential revenue would offset that. So, again, whether we go the bond route or paying it off through a sinking fund. Those are questions that we would have to look at.

Mr. Hooser:
financing?

So, the plan for closure could include bond

Mr. Hunt: Again, I do not want to commit to that because of the issue of the third party vendor and other things that were involved in that particular. There could be a type of bond that could be available and then the other issue is this ongoing closure that there is going to be post-closure costs that will incur as regular operating, but then do we want to be paying for the closure for twenty (20) or thirty (30) years because we chose the bond route. That is the other.

Mr. Hooser:
that land?

Right, and looking at revenue potential from

Mr. Hunt:

Correct.

Mr. Hooser:
something.

That we might be able to figure out

Mr. Hunt: Yes, and there would be sort of I guess, two (2) phases. One would be getting it to what they call the "methane flare," which is just the mandated requirement to release the methane and of course we just do not want to release it. We want to extract it, refine it, and use it. So, then there is an additional cost to create the refinement and estimate how much is there and what we could potentially have as a cash flow?

Chair Furfaro: For follow-up to this as Mr. Hooser has surfaced that and I said yes, it is not inclusive of that. I am going to put Mr. Sato on the agenda in a couple of weeks and he did the potential forecast of what value that piece has for us. So, we will follow-up there if we can.

Mr. Hooser: Just a last note and then I am done. There might be other revenue potential besides the methane.

Chair Furfaro:

Yes.

Mr. Hooser: It is quite a large piece of property and so there might be other revenue. Thank you.

Chair Furfaro: For now, we will call it the potential revenue from the landfill and we will cover all items.

Mr. Hunt:

Great.

Chair Furfaro: We need to break because we are going to have to cut out lunch hour short by ten (10) minutes. We will back to this agenda item probably around 4:00 p.m. I do not want to know it now, but I want to know if there is any plan by the Administration to address changing our contribution to the Employee Retirement Funds? Is that going to be something in your budget status? I do not want the answer, but I do want to hear about it at budget time. I would like to be back here at 1:40 p.m. Thank you.

There being no objections, the Council recessed at 12:43 p.m.

There being no objections, the meeting was called back to order at 1:48 p.m., and proceeded as follows:

Chair Furfaro: As noticed in my housekeeping piece, I need a fifth member here. Thank you. Eddie. Do we have a County Attorney?

Mr. Topenio: County Attorney is not here.

Chair Furfaro: They are on their way? Okay, I am going through approval of the Committee Reports while we are waiting for the County Attorney, please.

There being no objections, the Committee Reports were taken out of order.

COMMITTEE REPORTS:

HOUSING & TRANSPORTATION COMMITTEE:

A report (No. CR-HT 2014-01) submitted by the Housing & Transportation Committee, recommending that the following be Received for the Record:

“HT 2014-01 Communication (02/13/2014) from Committee Chair Yukimura, requesting agenda time to discuss a proposed draft Resolution Acknowledging the Necessity to Expedite Permit Processing for Workforce Housing Units,”

Mr. Kagawa moved for approval of the report, seconded by Mr. Rapozo.

Chair Furfaro: Any discussion? Any testimony?

The motion for approval of the report was then put, and carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

Chair Furfaro: Next item.

ENVIRONMENTAL SERVICES / PUBLIC SAFETY / COMMUNITY ASSISTANCE COMMITTEE:

A report (No. CR-EPC 2014-04) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2516, Draft 1 A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE UNDER CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED BARKING DOGS,”

Mr. Chock moved for approval of the report, seconded by Mr. Kagawa.

Chair Furfaro: Does anybody wish to testify on this item?
No?

The motion for approval of the report was then put, and carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

Chair Furfaro: Next item, please.

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2014-06) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2528 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of Economic Development, Administration – Other Services, Kaua‘i Historical Society Grant – \$25,000*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-07) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2523 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Police Department Other Post Employment Benefits (OPEB) Replenishment Due to Bargaining Unit 12 Increases – \$987,606*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-08) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2524 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Committed Reserve Fund Replenishment Due to Bargaining Unit 12 Increases – \$561,864*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-09) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports &

Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2525 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO.B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Committed Reserve Fund Replenishment Due to Bargaining Unit 13 Increases – \$197,072*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-10) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2526 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO.B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*General Fund Other Post Employment Benefits (OPEB) Replenishment Due to Bargaining Unit 13 Increases – \$295,422*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-11) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2520 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES,”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-12) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2521 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO.B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE

HOUSING & COMMUNITY DEVELOPMENT REVOLVING FUND
(Housing Agency Grant Funded Bargaining Unit 13 Increases – \$20,891),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-13) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2522 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Fire Department Bargaining Unit 11 Increases – \$617,529*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

A report (No. CR-FED 2014-14) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2527 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Department of Parks and Recreation, Parks Maintenance Septic System Pumping – \$200,000*),”

Mr. Chock moved for approval of the report, seconded by Mr. Hooser, carried by a vote of 7:0:0 (*Mr. Bynum and Ms. Yukimura were not present*).

Chair Furfaro: We have a County Attorney present now. Let us go to the matter of business that was forecasted for now. I guess I am going to ask for ES-706 and ES-703, and then I will excuse myself on ES-704 and give it to Vice Chair. Could I have the items read?

There being no objections, the rules were suspended.

Mr. Castillo: Good afternoon Council Chair, Councilmembers, Al Castillo, County Attorney. Council Chair, I am looking at the agenda items and they go from ES-703...

Chair Furfaro: This is all I want for right now because the office has made requirements to meet at certain times for available attorneys. So, I want ES-706 and ES-703 read now, and then I will excuse myself and have Mason listen to the reason for reading of ES-704.

Mr. Castillo: Okay, I got it. So, I will read ES-703 and ES-706, and then thereafter I will read ES-704?

Chair Furfaro: Yes.

Mr. Castillo: Thank you.

There being no objections, the Executive Sessions were taken out of order.

EXECUTIVE SESSION:

ES-703 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding the settlement in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (United States District Court), and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-706 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing on Kaua'i Springs, Inc. vs. County of Kaua'i, et al., Civil No. 07-1-0182 and Kaua'i Springs, Inc. vs. Planning Commission of the County of Kaua'i, Civil No. 07-1-0042 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Castillo: Thank you.

Chair Furfaro: So, we are taking testimony on ES-706 and ES-703 before I call for a vote for going into Executive Session. Is there anyone in the audience that wishes to speak on either of those items?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: Council Chair Furfaro, on ES-703 we have four (4) registered speakers.

Chair Furfaro: Joe, did I see you raise your hand? Joe, did I see you raise your hand on ES-703? Here is what we were doing. We are taking testimony now from the public on either ES-703 or ES-706. Is there anyone, and I heard we had four (4) people signed up? Joe, was one of them. So, please come up, Joe. Read the four (4) names and in that order, call them up.

Ms. Fountain-Tanigawa: Okay. The first registered speaker is Shaylene Iseri, followed by Glenn Mickens.

Chair Furfaro: Read all four (4) that have signed up.

Ms. Fountain-Tanigawa: Joe Rosa and Ken Taylor.

Chair Furfaro: Okay. Okay, wait a minute. Here are the rules, Joe, I called you up twice. You did not come up. Now, we are going to go by the order that they signed up. Iseri, you have the floor. Just name which of the two (2) you are going to speak on, Shay.

There being no objections, the rules were suspended.

Ms. Iseri: Council Chair, it is ES-703.

Chair Furfaro: Okay, ES-703?

Ms. Iseri: Yes.

Chair Furfaro: Shay, when you are going to make a presentation, we will give you six (6) consecutive minutes.

Ms. Iseri: I do have copies of the presentation,
Mr. Chair.

Chair Furfaro: If you want to pass them out, staff. Set the alarm for one (1) time, six (6) minutes, please.

Ms. Iseri: Ready? Good afternoon, Shaylene Iseri, Mr. Chair, Council Vice Chair, and members of the public. It is a continuation of the presentation from last week. As indicated, it is my position that the County Attorney, Mr. Castillo, violated his fiduciary duty to the County of Kaua'i and our people by acting against the County's best interest. There were clearly, at least eight (8) things that the County Attorney failed to do that were irrational and adverse to the County's interest. He failed to communicate with me, and in fact, I never ever spoke to the Special Counsel, Mr. Richard Nakamura. The County Attorney made statements against me, he failed to allow us to answer complaints subjecting us to potential default judgment, he failed to allow cost of travel to assist with preparation of the case, he failed to save attorney's fees by hiring three (3) attorneys when only one (1) was needed, he also failed to recuperate the County's payment of attorney's fees, and he failed to allow the Special Counsel independence to contest insurer and determine strategy, he failed to protect the County of Kaua'i by allowing continuances adverse to the County's interest. Was that my first three (3) minutes?

Chair Furfaro: No, you just started when you started talking. Go ahead.

Ms. Iseri: Okay. Failed to protect the County of Kaua'i by allowing continuances on my motions to dismiss adverse to the County's interest, he failed to inform the Council of his rights lost in insurance contract, and failed to protect the County's interest by giving insurer total decision making power without meeting the threshold. This was made by a Councilmember at a last meeting, and it still exists today. I smell a rat. It is a rat. It was clearly a race to get to the five hundred thousand dollars (\$500,000) insurance deductible. At the last meeting, there was some corrections that were made, but after confirming this with the County Attorney's Office and Beth Tokioka, the amounts that were appropriated for this case only reached four hundred sixty one thousand dollars (\$461,000) and this is supported by the Council's minutes. There was insufficient votes for October 23, 2013. There were only four (4) votes that were passed to get it to the five hundred thousand dollars (\$500,000), yet, the County Attorney knowing that, still went ahead and executed on November 19, 2013 a contract for Special Counsel services and on December 6, 2013, executed a contract with the insurer to take over defense of this case, which took away the power from the County Council.

These are the amount of contracts and amendments to the contracts and the dates of the contracts for my Counsel, Robert Katz. So, there were five (5) amendments to the contracts. All of these contracts were either signed by Al Castillo or signed for Al Castillo. Last meeting, it was represented that maybe the fees could exceed what was in the contract. This would be clearly, in violation of the contract. In 4(D) it says, in no event shall the County pay Special Counsel fees more than a total of – and the amounts there are ones that have been approved, unless the agreement is amended by the parties. So, it is not oh, maybe we have to pay afterwards when they come after they have exerted so many limits. This clearly says that the County is not responsible for any fees beyond what is in the contract. As indicated earlier, there were numerous amounts, five (5) special amendments that totaled one hundred seventy-five thousand dollars (\$175,000).

Despite the conflict that existed with the County Attorney, he maintained total control over the contract. This is in the contract, scope-of-services, Special Counsel as co-Counsel, and we questioned last week what is the role of Special Counsel. Apparently, here, the role is basically to do what the County Attorney says and that is stated in the contract. It says that Special Counsel, as co-Counsel, they have no independent judgment whatsoever and is supposed to do what is required by the Office of the County Attorney. Again, Richard Nakamura never spoke to me at all during the entire time of his contract and many decisions had been made adverse to the County and my interest, and I was never consulted.

Al Castillo also, again, maintained total control not only by signing the contracts, but also he listed himself as the Officer-In-Charge. The County Attorney shall be the Officer-In-Charge, it shall represent the County and shall have the authority and responsibility of the County over the Special Counsel. This is why my

Special Counsel said they had no authority to dispute any decision making by the insurer. Not only did he stay Officer-In-Charge, he actually listed his name as the person. So, on page 3 of the General terms and Conditions of the Professional Services contract, Al Castillo specifically listed his name, that he is the Officer-In-Charge and no amendments were ever made to the contract to change him from Officer-In-Charge despite the fact that I learned on February 4th that Al informed me that he had a conflict, that he was kicked off the case, and Jennifer Winn had come in on the case. I asked when that occurred, Jennifer Winn told me that it had occurred in July, yet you see on August 14th and subsequent to that, Al Castillo still remained in control of the contract, he signed the contract, and he still remained as the person of the Officer-In-Charge of the contract.

It is clear that the County Attorney acted to protect himself and others and denied the people's right to learn the truth. He abused his position of power and trust to deceive the Council and the people and reward Special Counsel fees to those following his advice, and he clearly deviated from his special duties and an attorney to protect the County's interest and also deviated from past practices by giving the authority over to a non-party who purely has only a financial interest, to achieve his own political and personal agenda. It is clear that this case reeks of corruption. This is just one (1) case. The pattern definitely exists in other cases. There was a concurring case involving Becky Vogt where the County Attorney was able to manipulate that contract and actually stepped in the shoes of the Special Counsel and told them not to do any investigation on the case because he was going to settle the case. So, it was clear he was settling these cases with taxpayer's money for which he derived a benefit for himself or his allies to the detriment of this County and to our people. Thank you. That is my six (6) minutes.

(Ms. Yukimura was noted as present.)

Ms. Fountain-Tanigawa: Six (6) minutes.

Chair Furfaro: Thank you very much, and your PowerPoint, we have that copy?

Ms. Iseri: Yes.

Chair Furfaro: Thank you, Shay.

Mr. Rapozo: I have a question, Mr. Chair.

Chair Furfaro: Question.

Mr. Rapozo: You referenced a lot of information out of the contract. I guess I am curious how you got the contract because I requested – I finally got it today just an hour ago. Did you get copies of the contract?

Ms. Iseri: I got the copies of the contract, I believe, last week Thursday.

Mr. Rapozo: And how?

Ms. Iseri: From Jennifer Winn, well, Barbara Montemayor, I guess, who is the staff person at the County Attorney's Office. She mailed me the copy of the contract. I had made that request to my Special Counsel. I never received anything from Special Counsel.

Mr. Rapozo: So, you have the contracts for all of these amounts that you address in your PowerPoint?

Ms. Iseri: Exactly. I have all of the contracts and all of the amendments, and all of the terms, the general and special conditions.

Mr. Rapozo: Okay. I would assume on these contracts, and I have not really had the chance to go through these, but the Officer-In-Charge is listed as the signer of the contract?

Ms. Iseri: Also listed as the Officer-In-Charge and signed the contract, signed his own name. There are checks and balances, meaning that there are other people that sign off on the contract, like the Finance Director. If somebody else signs off on the contract, they would sign like Deputy Finance Director. They are signing for him or he signed his signature himself, but specifically on the August contract after he had declared a conflict in this matter and he did not reveal to me the conflict that he had, but it occurred in July, but definitely the August contract, he had signed personally with his own signature and left himself as Officer-In-Charge. August 14, 2013.

Mr. Rapozo: The other question is on the second page of the presentation item, you list eight (8) actions and number 3, failed to allow cost of travel to assist with preparation of the case. Was that request made through your Special Counsel?

Ms. Iseri: Attorney.

Mr. Rapozo: Your Special Counsel?

Ms. Iseri: Yes, and that was in the presentation I did last week. I know I rushed through it, but if you look on the other spreadsheet that I had provided, it indicates the date that my attorney had made a request to attend the depositions of Mr. Bynum and Mr. Delaplane, April 15th. You can reference your chronology sheet. This is exactly that it states in the E-mail. Since we believe

it would be helpful to have Shay attend Bynum's deposition on April 23rd and Delaplane's deposition on April 26th, I am asking for approval and it was denied. I got an E-mail from Counsel on April 23rd. He denied travel for Bynum's and Delaplane's deposition and there was one in January. On January 28, 2013, Bob Katz asked Al to authorize travel for the initial date that Bynum's deposition was set on February 14th. Said again, I think it would be helpful to have Shaylene present for the deposition on O'ahu. Please advise if you will authorize travel cost and Al Castillo denied travel costs.

Mr. Rapozo: So, that request was made by your Special Counsel assigned in your official capacity?

Ms. Iseri: That is correct.

Mr. Rapozo: Not your personal capacity?

Ms. Iseri: That is correct. That was Robert Katz.

Mr. Rapozo: So, Mr. Katz requested from the County Attorney's Office and you were denied or he was...

Ms. Iseri: Three (3) times.

Mr. Rapozo: He was denied.

Ms. Iseri: Three (3) times. So, there was no preparation. There was one (1) time I flew up on my own to interview with the Special Counsel because the answer was due I believe, on December 17th, and so I had to fly up on the 14th in order to interview myself or else we would be in default judgment of filing the complaint for the second time.

Mr. Rapozo: Thank you.

Chair Furfaro: Thank you, Shay.

Ms. Iseri: Thank you.

Chair Furfaro: Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Glenn Mickens, followed by Joe Rosa.

Mr. Mickens: For the record, Glenn Mickens. Thank you, Jay. I have a short testimony. You have a copy of it. I read the agenda item

regarding settlement in the Bynum case and sit here somewhat confused. I was present on February 7, 2014 and it was clear from the Councilmembers present, they were in favor of proceeding on the motions to dismiss. There were many benefits of proceeding. One which was to uncover the truth and confirm or deny the truth of Bynum's claims against the County of Kaua'i, Ms. Carvalho, and Sheilah Miyake. I inquired as to the status of the dismissal motions and learned that they were withdrawn with no disposition. Numerous public statements by Bynum demanded a trial, demanded holding Ms. Carvalho accountable, demanded bringing everyone to justice and yet, the record clearly shows that Bynum on three (3) separate occasions, initiated motions to dismiss his case against Iseri in her capacity and she objected every time because she insisted that the truth be told as you also heard Mr. Wilson say when he was up here. I think Bynum, especially as a public figure, needs to explain to the people why after all of the horrible allegations he made against Iseri, he is now begging to dismiss her case. I guess it was dismissed. I agree with what Councilmember Kagawa said, "If it smells like a rat, then it is a rat." I commend Ms. Carvalho for pushing for the truth as all costs. As she testified before, to settle a lawsuit with no merit is immoral in a government setting. The integrity and the reputation of the County and its officials is priceless. When a Councilmember chooses to abuse the judicial system by suing other County officials and intentionally attracts the media with his sensationalism of untrue facts, he needs to be held accountable. Do not settle this matter, and if it does get settled through no fault of your own, then make Bynum pay the County back for wasting your time, resources, and money. Thank you, Jay.

Chair Furfaro:

Joe, you have the floor.

Mr. Rosa: Good afternoon members of the Council. For the record, Joe Rosa. Again, I am going to start out by saying like I have heard it time and time again, ignorance to the law is no excuse. This coming from a public official, that when he got elected he knows that he would uphold the Constitution of the United States of America, the State of Hawai'i, and the Charter of the County of Kaua'i. Those are very important things of issue. Again, like I just said, ignorance to the law it no excuse. Being a public official, he has an attorney, the County Attorney, that the County and the people of this island pays the person to do the job and to represent County employees, the workers, and the Council. So, why try to take things on his own and cause all of these problems? It should not have been a problem and is something of more so, personalities. Personalities, that if you follow the Council Meetings, you would have seen it from the start. I give Mr. Kagawa credit like he said, you have to put an end to this thing with the County of all of these liability suits that they have. There is going to be no end to any kind of a settlement because the public and the people, the taxpayers, will not know what the truth is. So, if you want money and trying to be a whistleblower, you need the facts. You need the facts, not personalities. In this case, I look at it is a case of personalities with no merit of something other than trying to drill the County and

the people of Kaua'i for free money. He wants his money, go to the courts, and prove his point. It is time that the truth is heard by the people of Kaua'i. Remember, this is an election year and this all came about two (2) years back and it seems like it was a slander kind of thing that was to prevent the reelection of Ms. Iseri-Carvalho. So, if the person is seeking compensation, get the story straight. Let the public know what the truth is. It is not time for a settlement. He started something, you go to the bottom of it and get to the bottom of it, and get the facts in a court of law.

Ms. Fountain-Tanigawa: Three (3) minutes.

Mr. Rosa: Like I just said, ignorance to the law is no excuse. I leave you with that thought. Thank you.

Chair Furfaro: Thank you, Joe. On that thought, we have a request for a tape change from the filmer. Thank you for your testimony, Joe. When we come back, we will take the next speaker.

There being no objections, the Council recessed at 2:13 p.m.

The meeting was called back to order at 2:19 p.m., and proceeded as follows:

Chair Furfaro: We are back from our tape change. Ken, could you tell us are you speaking on ES-706 or ES-703?

KEN TAYLOR: ES-703.

Chair Furfaro: ES-703. Go ahead, you have the floor.

Mr. Taylor: Thank you, Chair and members of the Council. My name is Ken Taylor. First of all, I want to remind each and every one of you that when you took your Oath of Office you swore to uphold the Federal Constitution, the State Constitution, and the Charter of the County. I first want to read from the Minutes of July 28, 2010 from pages 14, and 31 through 36. Page 14, Chair Asing, opens. The meeting is now called to order and to have the Transient Vacation Rentals (TVR) Bill as one of the items. On page 31 of the minutes, a public member said, "What I want to testify about today is the inappropriateness of Tim Bynum sitting on this matter. It's bad enough that he's had input on the bill, on the measure but the fact that he's going to be voting. He went on public TV... I mean a public radio forum and stated that he has a TVR on Ag land, now if he's saying that this is not true then I have to ask, when is he telling the truth. Is it on the radio or is it here at the Council? Do you tell the truth sometimes? Which is it... you get on the radio and tell everybody that you have a TVR on Ag land but now you're shaking your head no." On page 31 Asing gives the floor to Bynum and he says, "Yeah I want to respond, absolutely. First of all, I do not have a TVR on Ag land, I never have, I never will...I never said that on the radio." Page 33, I asked some questions and I suggested that because a number of people had raised the issue of whether there was or was not a TVR on his property, that a report be done. To my knowledge, that report was never done. On page 34, Kaneshiro asked, "what I heard from Mr. Bynum is that he said he doesn't have a TVR on the land..."

Page 35, Councilmember Furfaro, "Mr. Bynum has said to us that he does not have a TVR on Ag land and that is what he has stated." Page 36, Mr. Bynum, "Let me state for the record, I don't have any kind of TVR on Ag or on any other land, I have never had a transient vacation rental for one (1) day in any way shape or form."

Ms. Fountain-Tanigawa: Three (3) minutes.

Mr. Taylor: So, what he is saying here in the record, he has no TVR. In another public document, Board of Ethics disclosure statement dated December 11, 2008, his annual household income. Employment, small business, and rent, sixty-five thousand dollars (\$65,000). It does not break down where it went so I went back and I took a look at some of this situation. According to Section 4, Chapter 3, Article III, Section 3-3.1 of the Kaua'i County Code is hereby amended to read, "Effective date 01/01/2009" that the rate went up, but prior to that, it was thirty-five thousand one hundred dollars (\$35,100). In taking thirty-five thousand one hundred dollars (\$35,100) from the sixty-five thousand dollars (\$65,000), you get twenty-nine thousand nine hundred dollars (\$29,900). Also, in the Board of Ethics disclosure statements, there was a disclosure that he made twelve thousand dollars (\$12,000) from his small business. So, take that from twenty-nine thousand nine hundred dollars (\$29,900), it would leave seventeen thousand nine hundred dollars (\$17,900), which leaves me to believe that that is rent because he declared in his document that he had employment money, small business, and rent. Three (3) items, sixty-five thousand dollars (\$65,000). What is it? Is he lying here that he does not have a TVR or is he lying here that he has one? That is the question. Does he have one or does he not have one? In the Charter under Section 20.04, Disclosures, Section E. It says, the Mayor, the Council – that is you folks, and the Board of Ethics shall be responsible for the enforcement of provisions in this Article. Now, Mr. Bynum has in one case said he did not have a rental. In another case, he says he has had a rental. I think before any more activity takes place with the Bynum issue...

Ms. Fountain-Tanigawa: Three (3) minutes, a total of six (6) minutes,
Chair.

Mr. Taylor: You are responsible to the community to do a report and finalize this information. It is all public record.

Chair Furfaro: Thank you, Ken. Your six (6) minutes expired a little earlier. I let you summarize that piece.

Mr. Taylor: Thank you.

Ms. Yukimura: I have a question.

Chair Furfaro: Ken, JoAnn has a question for you.

Ms. Yukimura: I do not know that a TVR was ever an issue on Mr. Bynum's place. Maybe a rental was, but there is a distinction and I do not think you should mix it up.

Mr. Taylor: TVR or rental, it does not make any difference.

Ms. Yukimura: It does.

Mr. Taylor: He has a single family home on agricultural land.

Chair Furfaro: Excuse me, Ken. She had not finished posing her question to you. Would you give her time to summarize her question? Go ahead.

Ms. Yukimura: I would like to ask whether you would correct yourself because I do not think the TVR is an issue at all.

Chair Furfaro: Okay. Ken, thank you for your testimony. That is our fourth speaker for these items. On that note, because I would like to take a vote on going into Executive Session on these two (2) items, then I am going to leave the room so that we can take ES-704. Did you have a question?

Mr. Kagawa: I have a question for the County Attorney.

Chair Furfaro: For the County Attorney?

Mr. Kagawa: Quick question.

Chair Furfaro: County Attorney.

Mr. Kagawa: Or Jennifer is fine too. This is my question...

Mr. Castillo: Wait. I am sorry. Good afternoon, Council Chair, Councilmembers, County Attorney, Al Castillo. Yes, sir, how can I help you?

Mr. Kagawa: Regarding the Bynum case, ES-703. This has been bothering me for a while so I am going to ask it. Mr. Bynum's attorney is Margery Bronster from the firm Bronster Hoshibata.

Mr. Castillo: Yes, that would be one (1) of his attorneys.

Mr. Kagawa: That attorney firm also represents a major seed company that Bronster and Hoshibata were even present with testimony in June when Bill No. 2491, Draft 2 was here.

Mr. Castillo: Okay.

Mr. Kagawa: And they threatened us that if we passed this Bill, that they would be suing the County. It troubles me that Ms. Bronster representing Mr. Bynum, was the attorney telling us not to pass the Bill because they would be suing and Mr. Bynum was a strong supporter of the Bill even though he heard from his attorney that passing the Bill would lead to a lawsuit and her company basically making more money. I am troubled that you folks did not feel that at the time, that there was an ethical problem with Margery Bronster representing the seed companies and Mr. Bynum.

Mr. Castillo: Um...

Mr. Kagawa: Because obviously, she cashed in on Mr. Bynum's lawsuit, and she cashes in again on the seed company's lawsuit. I am just troubled that his vote really played a big part in the Bill passing.

Mr. Castillo: I am sorry. To keep the Sunshine Law clean on this one, the agenda item, this is the potential conflict between Margery Bronster, the Councilmember, and that subject matter. If there was a complaint then, that complaint should be filed at the proper agency, but as far as right now, I would not be able to answer you on that.

Mr. Kagawa: Okay. We will ask for a separate posting then at a future date.

Chair Furfaro: JoAnn.

Ms. Yukimura: Al, if there is a conflict of interest, is that not a decision for the Disciplinary Counsel?

Mr. Castillo: Yes, if there was...

Ms. Yukimura: So, Councilmember Kagawa – because nobody here you really has the official capacity to say so. So, that proper forum would be to file a complaint with them, right?

Mr. Castillo: With the Office of Disciplinary Counsel (ODC).

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: Excuse me, Al. Can you tell me, to your knowledge, if a complaint to ODC went through?

Mr. Castillo: I do not. I would not be previewed to that information.

Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. First of all, I think Mr. Kagawa is referencing Mr. Bynum's vote for the Bill, he is not a lawyer so ODC has nothing to do with Mr. Bynum's decision to stay or not to stay. I cannot imagine Margery Bronster even being subject to an ODC ruling because she is just being a lawyer for whoever she can. Anyway, I just wanted to bring that up. I have a question and I do not even know if Al, I really cannot say if you were conflicted or not in the Bynum case, and if you cannot answer this, I know Jennifer is here. How much is the County's legal fees as of today?

Mr. Castillo: There are two (2) issues that you have brought up and I would like to address both of them. The first is the mention about whether or not I did recuse myself from the case. No. I have never recused myself as far as declaring a conflict. I did start off as the Officer-In-Charge. In July, I was not the point person any more on the case, and that point person that handled the case from that time on with the County and the Special Counsel was Jennifer Winn. Now, as far as the total amounts, I am sorry, I do not have all of that. I believe it is either being tabulated or Jennifer has already tabulated that. I believe we have a special session on that Executive Session later today.

Mr. Rapozo: Yes, but if Jennifer can come up and give us that number. The only I bring this up is today, there is a huge article in the Garden

Island newspaper, which I believe the public needs to be corrected on several of the comments. I just want the public to know what the tab to the County was as of today.

JENNIFER S. WINN, First Deputy County Attorney: Deputy
County Attorney, Jennifer Winn. I am sorry, I missed the question.

Mr. Rapozo: How much has the Bynum lawsuit cost the
County as of today?

Ms. Winn: I do not...

Mr. Rapozo: How much has the attorneys charged us as of
today or the last billing cycle that we got from the attorneys, the Special Counsel?

Ms. Winn: I do not have an exact figure for you. The
insurance company gave us directions on how to handle the attorney's bills. So, my
understanding is that they have been following the insurance company's directions.

Mr. Rapozo: Who is the client here?

Ms. Winn: I am sorry?

Mr. Rapozo: Who is the client? Who is paying the bills?
The insurance company or are we?

Ms. Winn: They agreed to defend the claim once we set
our – I am sorry. I cannot remember the phrase for it. They accepted the claim
with Reservations of Rights and so that includes paying the attorney's bills from
that point on. I do not know if they actually have paid it or not, but they gave us
instructions on how the...

Mr. Rapozo: Jennifer, let me make it easy. The last bill
that we got from the Special Counsel, whatever that was, how much are we in this
case for as of today or to the last known amount?

Ms. Winn: The amount that Special Counsel has billed,
I am not sure exactly because we had not been getting courtesy copies of all of the
bills. They have been sending some of the directly to the insurance company
because once we submitted our claim to the insurance company, they took over the
Right to Defend and I gave you those Reservation of Rights letters.

Mr. Rapozo: I saw those letters.

Ms. Winn: So, I cannot tell you exactly how much
Special Counsel has billed. The County, and I do not have the exact figure, has paid
somewhat under five hundred thousand dollars (\$500,000).

Mr. Rapozo: Under five hundred thousand dollars
(\$500,000)?

Ms. Winn: Around there, yes.

Mr. Rapozo: Under five hundred thousand dollars (\$500,000) that we have paid the law firm, and our deductible is five hundred thousand dollars (\$500,000)?

Ms. Winn: The Self-Insured Retention (SIR) is five hundred thousand dollars (\$500,000), correct.

Mr. Rapozo: Okay. So, we do not know right now? We could not tell the public how much we owe the attorneys? There is no way we could have the number even with a phone call to your office?

Ms. Winn: I could try to do that.

Mr. Rapozo: I mean, I just want to know how much. I think the public should – because the newspaper printed five hundred thousand dollars (\$500,000). I know it is beyond five hundred thousand dollars (\$500,000). That is what I was told. So, I want the public to understand how much this case is costing them. A lot of it has to do with what was printed today in the article. A lot of what has been said has to do with what Mr. Bynum, the comments that he made, that I think the public – because see, that is the problem for us because all of our discussion are in Executive Session. However, the case is now settled. The case is done. That is what is in the paper. By Mr. Bynum's own admission this morning, he said the case is over. I want the public to understand some things.

Mr. Castillo: Yes, and I would also like the public to understand that we are at a point in time when the documentation is going through the process and we are tabulating the invoices. Right now, we can only give you what we have. I know that we have exceeded the five hundred thousand dollars (\$500,000), but I cannot give you an exact number. As we go through the process of finishing up on this case and closing out this case, then we will be able to give you a better number as far as how much the County is on the hook for.

Mr. Rapozo: Does the contract not require these attorneys to submit bills monthly?

Mr. Castillo: We went through this again last week or a couple weeks ago. Yes, they are required to be current in their invoices to us.

Mr. Rapozo: Correct.

Mr. Castillo: Yes, and that is why...

Mr. Rapozo: Have they been current?

Mr. Castillo: That is by the...

Mr. Rapozo: By the contract.

Mr. Castillo: Yes, it is by the contract, but I balance that also with the Special Counsel's duty and obligation to defend this County vigorously. There are times that we cannot say, "Okay, stop." There are times that it overlaps and this is...

Mr. Rapozo: Al, I am not questioning that. I am questioning – the contract requires them to submit billings every month.

Mr. Castillo: I understand that.

Mr. Rapozo: That is a contract. If they do not follow that, it is a breach.

Mr. Castillo: Yes.

Mr. Rapozo: The contract also states that they are not allowed to spend more than the contract amount. I see you smiling, maybe you think this is funny.

Mr. Castillo: No, it is not funny because...

Mr. Rapozo: But the contract says that until that contract is amended, they are not to do more work. I understand, but Al, you cannot even tell me what the last billing was.

Mr. Castillo: There are three (3) Special Counsels on this. Yes, I am telling you that we are gathering that information. That information is not available for you.

Mr. Rapozo: Okay, I understand. Mr. Chair, that is all I have.

Chair Furfaro: Al, I am going to make special request here, okay? We have other law firms on the clock because we were supposed to go into session here, and for the next item I have to excuse myself, but I would like to be able to summarize that because I think many of you know I have been watching my own running tab on this, but that is not the official document. As Mr. Rapozo has pointed out, perhaps something that reflects the last three (3) billing dates and something that can go to him that reflects those totals for the three (3) different attorneys would be appreciated.

Mr. Castillo: Okay.

Chair Furfaro: We will abide by whatever confidential information is required if any, but it is public money. So, if we can try and do that before the end of the week, I would appreciate it.

Mr. Castillo: Council Chair, I am smiling because I am smiling. It has no reflection on how I – I am not making a mockery of anything. I just want to be as positive as I can be for this Council and give you the information that I actually have.

Chair Furfaro: Understood and appreciated, and at the same time, I want to validate Mr. Rapozo's questions. If you folks can work on that, it would be appreciated because the public should have a right to know.

Mr. Castillo: We will. Thank you.

Chair Furfaro: Okay, Mr. Rapozo?

Mr. Rapozo:
of them. It is what it is.

Yes. What can we do? We cannot beat it out

Chair Furfaro: I do not want to share the numbers that I have because they have not been audited and I do not know if they are actually correct.

Mr. Rapozo: I do, if no one else...

Chair Furfaro: Jennifer, did you have any problems with what I said?

Ms. Winn: I do not think so.

Chair Furfaro: What did you say?

Ms. Winn: I said, I do not think so.

Chair Furfaro: Thank you.

Mr. Rapozo: I do, Mr. Chair, I do have some comments if no one else has any questions.

Chair Furfaro: Okay, we are open for some comments here before I take a vote and then I would like you folks to stay at the table for ES-706 while I excuse myself.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: On item ES-706 and ES-703, dialogue amongst ourselves. I will recognize you first Mr. Rapozo, but before I do, I just want to say "hello" to you. That is your mom in the audience?

Mr. Rapozo: Yes. I wish she had not come today because she is going to see that ugly side of Mel.

Chair Furfaro: I think mom is happy to see Mel any time. Nice to have you with us. Mel, you have the floor.

Mr. Rapozo: She is actually with her sister, which is my aunty whose birthday was recently I think, yesterday or today. Happy birthday mom – I mean, aunty. Anyway, again, my comments today are in response really, to a couple of phone calls that I have received since the morning article came out in the Garden Island. If you read the article, and I know Mr. Chair, I appreciate your comment in the paper about clarifying. I do not know how clear the public got that, but Mr. Chair, your comments, "Under the terms of our insurance policy, the insurance company had the right to settle without the Council's approval." I appreciate that because that is the truth. What I want the public to know is that we did not settle. The Council, did not agree to settle. In fact, the Council had agreed to take this case at least to the dismissal motions, the motions for summary judgment, which was going to occur on February 10th I believe.

Chair Furfaro: Excuse me, can I just get some clarification? My quote to them was them calling me. Did I not make that clear that it was the insurance company that settled?

Mr. Rapozo: Yes.

Chair Furfaro: Oh, okay.

Mr. Rapozo: You said "the insurance company has the right to settle without the Council's approval."

Chair Furfaro: Okay, good.

Mr. Rapozo: It does not say that the Council did not approve the settlement and I think that is a very important component. This case has been going on now for over a year and as Mr. Mickens and Mr. Taylor has constantly argued – not argued, but complained about the number of Executive Sessions that we have had. From the beginning, this Council was assured that the case against the County was very weak, that in fact, the case was in the terms of – and we had three (3) attorneys now. Three (3) Special Counsels, which we should have only had one (1), but we had three (3). Three (3) of the Special Counsels said that this case was without merit, it was baseless, and I believe even one of the attorneys mentioned that it was frivolous. There was one (1) claim that the attorneys felt that we would have a struggle with, but yet, the damages were very minimal. The Council, under the advice of the attorneys, said that we would – or the attorneys said that we would not entertain any settlement or mediation discussions until after the motion for summary judgment, February 10th.

Ms. Yukimura: Question. Point of order.

Chair Furfaro: Point of order. Would you reference the Rule for me?

Ms. Yukimura: I am concerned that there may be some violation of Executive Session.

Chair Furfaro: I will take a break here.

There being no objections, the Council recessed at 2:43 p.m.

The meeting was called back to order at 2:55 p.m., and proceeded as follows:

Chair Furfaro: Thank you for giving me the time to take a recess. I am going to reference, not from our Rules, but I am going to reference Article XX of the Code of Ethics as it talks in terms of officers and/or employees of the County, 20.02(b). "Disclosure of the information which, by law or practice, is not available to the public and which he requires in the course of his official duties or use such information for a presentation, in general. I assume this means when the settlement is complete. It brings me to another question and that completion of the settlement, I believe, is having signatures from all parties, having money paid, and at which time it raises what then happens to anything in the Executive Session minutes. Until such time, I am interpreting this, there could be penalties for the individual who provides information from this Section which could lead to reprimands. That is how I am interpreting this Rule, and since Councilmember

Rapozo is possibly touching on items that were discussed in Executive Session, it would be my position not to allow that to happen until this settlement is fully executed, signatures are done in agreement, and payment is made. If not, I would strongly suggest that we do not venture into that area, and I am reading the Rule.

There being no objections, the rules were suspended.

Ms. Winn: Right. As to the settlement in this case and any issues including whether or not it should be spoken of in the public, I believe those would all be appropriate questions for Special Counsel as they are actually representing the County in the Bynum case. However, in any other case that I may represent somebody in, I would not recommend speaking about it until such time all documents are executed.

Chair Furfaro: So, you are agreeing in how I am interpreting this as far as the documents are not all signed, the money has not been disbursed to the party, and therefore it should be still handled as confidentially as possible?

Ms. Winn: I would say that like I said, as to any case, normally that is what I would say. As to the specifics of this case, I suggest that you talk to your Special Counsel.

Chair Furfaro: Okay, I am going to make a decision because I cannot have Special Counsel here right now. I would base it on Article 20.02(b), that the deal is not finalized and we do not venture into that arena. That would be my interpretation. Mr. Rapozo, that would be my interpretation at this point.

Mr. Rapozo: Thank you, Mr. Chair. To save everybody any heartache I will end the line of questioning, but Jennifer, I do have a question, Mr. Chair.

Chair Furfaro: You still have the floor.

Mr. Rapozo: This was not discussed in Executive Session. I think the fact that we payout moneys to Special Counsel, that is public record. That is all approved here in open session. That does not happen back there.

Chair Furfaro: We understand that.

Mr. Rapozo: I will say that I have had the opportunity to speak to Mr. Nakamura on a personal basis that did not occur in Executive Session. I do not believe what was told to me by Mr. Nakamura is Executive Session material. I believe that if I had a one-on-one discussion with Mr. Nakamura, that I have the ability to discuss it. I will say that it is the general rule as long as I have been here now, and it has been ten (10) years, that once the case settles, the records become public. Maybe we do not have the official document, but apparently the Garden Island newspaper was informed that a settlement was reached. I take it. I am sure a press release was sent out or whatever and that is fine. It is problem that I am battling with because the insurance company has – I mean, if I smash my truck today and I went to the insurance company and the deductible had not been reached – I guess, let me just get to the point. The numbers that I see, the numbers that we have approved did not even reach the threshold, the moneys that this Council has approved as of today, does not reach the threshold set by the insurance

company. Would you agree? I am sure our insurance policy is public record. The numbers that we approved is public record. So, we have a deductible of five hundred thousand dollars (\$500,000). What we approved does not even reach the deductible?

Ms. Winn: I do not know if I agree because I do not have your numbers in front of me.

Mr. Rapozo: Well, I can tell you that it does not because I know what we now from what we approved and we have approved four hundred sixty some odd thousand dollars. That is what has been approved by this Council, well below – not well below, but below the insurance threshold, but yet, we engaged in a contract with the insurance company to settle this case.

Ms. Winn: We sent a claim to them and they accepted the claim and from there, per the policy, they did apparently settle.

Mr. Rapozo: But the threshold had not been reached yet?

Ms. Winn: We might be talking a little bit about apples and oranges.

Mr. Rapozo: Maybe.

Ms. Winn: Nevertheless, we sent the claim and they accepted it regardless of whether the Council approved four hundred and something or five hundred thousand dollars (\$500,000). The insurance company accepted the claim with a Reservation of Rights.

Mr. Rapozo: I guess, Jennifer, this is where I am having a huge problem because this body was never informed of the County, us, going to the insurance company before the threshold was reached, not even told that they were planning on doing that. It was just, I cannot repeat what was said in the Executive Session. So, we know the status of the case, we know the quality of the case, and before we hit the threshold somebody, which I am telling you I will find out, gave the okay for the insurance company to start negotiating this settlement. This body was never apprised of that and yet, this body was supposedly the keeper of the keys, the – what do you call it, Mr. Chair? Your terminology for watching the money? Oh, whatever it is. We were never ever informed and now we see this case is settled and I am reading things that really is not what I recall of being informed. I am kind of concerned. I am just curious, who makes that decision? Is it your office? Is it Special Counsel? The people we pay a lot of money to, that says just disregard the Council? We do not have to tell them. We are not at the threshold yet. That is my concern. I can see if we were getting there and I can see if we were briefed and said, hey, we are approaching the insurance threshold. We want the authority to move forward with filing an insurance claim. This was done premature, in my opinion, but who makes that decision? The insurance company is not out for the County of Kaua'i. Would you agree? Any insurance company in general. They are going to make financial decisions based on what is best for their company and not what is best for the island. So, my concern is that this body was completely left out of the loop in this case and the perception from the public is that we did that because it was one of our colleagues on the Council. That is the perception, and that is why I am having a rough time. I am struggling with that because I think Mr. Kagawa summed it up early on in this case. This is not about the money, this is

about finding out what happened and getting to the bottom of it. That never happened and I am troubled by it. At the end of the day, we are going to be writing a bunch of checks and I just do not know if the County was served, the people were served. Thank you, Mr. Chair.

Chair Furfaro:

JoAnn, you have the floor.

Ms. Yukimura: I have a question about the procedure for releasing Executive Session minutes. I do not think that just because something is allegedly settled, the minutes of the Executive Sessions are therefore open to the public. I think there is a process we have to go through and in that process we determine whether in fact the case was settled. Then we do have the discretion to release. Can you enlighten us on what that process is?

Ms. Winn: OIP has opined in the past that Executive Session minutes can remain private or confidential if the purpose of the Executive Session still exists. Attorney-Client privilege in my mind, would always be a valid purpose to not release Executive Session minutes unless this body chooses to waive Attorney-Client privilege.

Ms. Yukimura: In order for this body to act, there has to be a motion and a vote as well as Sunshine Law? We do have a process I know, which we have done in the past, which is, there is a proposal or a request to release from one (1) of the Councilmembers, we send it to your office to get legal advice about what considerations we should make and look at, and then after we consult with you, then we vote. I would think we would follow this procedure. There are reasons for this procedure. Thank you.

Chair Furfaro:

Mr. Kagawa.

Mr. Kagawa: I just have some comments. This is a highly unusual case where an elected official, our duties to serve the public, cashes in on a jackpot.

Ms. Winn: I am sorry. I do not mean to interrupt, but is that end of the questions then?

Mr. Kagawa:

Yes.

Ms. Winn:

Okay. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Kagawa: It would behoove me that we would want to withhold to the public this highly unusual circumstance and how an elected official that serves with us would cash in on a large chunk of cash from the public. I think the public would want to know what this Council do along the way. Did they have to spend hundreds of thousands of dollars and why would they do that when he had such a strong case? Why would they not just settle? I think the public needs to see all of the minutes so they can judge for themselves as far as what is our elected officials doing. This case is a disaster and I will say it to the County Attorney's Office. It is a disaster. The way we handled this case is an absolute disaster and I hope we never repeat this again. You do not hire three (3) attorneys for the same

case and just rack bills up. Oh my goodness. It is so frustrating. The most frustrating part is that, I do not want to criticize Ms. Iseri or Mr. Bynum. It was like a mutual fight, a political fight. Councilmember Yukimura was on the side of Mr. Bynum blasting Shay and blasting Keiki Productive Optimism Helps All Kaua'i Unite (P.O.H.A.K.U.). Mr. Delaplane was on the side of Shay blasting them back. Endorsements were made for Kollar. This is a big, big mess, but it is why they say politicians, you need to have thick skin. We have to take some heat sometimes, but this caused I guess, maybe more than just heat. It caused a situation where Mr. Bynum felt he had to sue the County, but I just think that we cannot close the closet and let everything be hidden on such an unusual circumstance. I hope this circumstance never arises again at the County level where we have to get to the point where the Councilmember has to cash in when the County is broke. We are broke right now. We are broke and we are going to pay a lot in attorney's fees to these greedy attorneys in Honolulu and we are going to pay our Councilmember too. I am just troubled, very troubled. Thank you.

Chair Furfaro:

Mr. Hooser.

Mr. Hooser: Chair, thank you. I want to echo your comments that were in the Garden Island that I think basically, you said that it was good to get this behind us, good to move forward onto pressing matters facing the County, and I share that one hundred fifty percent (150%). I was not here on the Council when this dispute consumed so much energy. I share much of what was said earlier in terms of feeling that it is a mess and that the County Attorney's Office did not handle it properly. However, Councilmember Bynum is not here to say his piece and he is not at liberty to say his piece apparently because of the situation, but I think it is fair to say that I do not think he would characterize it as cashing in. I do not know what fees he has. I do not know what costs have been incurred. I do not know that, but I do not believe that that is characterization that he would believe is the case and I do not think it is necessarily the case myself. I think if somebody came onto my property, looked in my window, and took pictures or notes I would be more than upset and I would want to sue somebody also whether it happened. Who knows what has happened, but I can certainly understand the situation and I think it is characterized as Mr. Bynum suing, Mr. Bynum suit costing the County this, costing the County that. I think it is a fairer characterization that it is a conduct of righting individuals in this County that created this contentious situation. Certainly, Mr. Bynum was a participant, the Prosecutors are participants, the Planning Department is a participant, and many others possibly could have stepped forward at some point and said, hey, folks, let us all take deep breath and do it, but hindsight it is easy sometimes so I am not going to go much further there. It is a lot more than just one (1) person. I for one, would love to know what actually happened and I do not even now if a court decision would tell us that quite frankly, but I am happy that we will be able to move on after this and we do have a lot of important business to conduct for the people of Kaua'i. One of those is working on the County Attorney's Office and the many issues we have with their office that do not, in my opinion, seem to be managed properly. Consequently, the County's costs and our legal exposure is greater in my opinion, than it needs to be. I look forward to that discussion and moving past the one we are on now. Thank you, Chair.

Chair Furfaro: I just want to make sure that everybody realizes that we are back together as a group. This is the Council discussion. Go ahead.

Mr. Rapozo: I just want to pretty much echo what Gary just said. I agree as well, Mr. Chair, with your comment that says, "The Council feels, in general, that this has been a difficult issue for all of us. It would be good to move forward for the mutual benefit of the County so that we can deal with other critical issues that we now face." I mean, I think all of us agree to that, but I do not think that we should move on, move forward. I agree we have to move forward for the mutual benefit of the County, but I do not think we should do that without taking a look at what really happened over the last year and a half. I do not think that this Council would serve this community if we just said, "Okay," like we have done so many times. We will do better next time people, taxpayers, we promise to do better next time. No. I am not going to be satisfied with that and I know I cannot say what I said in Executive Session, but I can say what I am going to say in Executive Session because I am not there yet. I am going to make a motion, number one, to release the Executive Session minutes of this whole process. We need five (5) votes. Whether we get it or not, I do not know, but I want the public to know, I want you to know what we were told and what happened over the last year and a half or whatever it was.

The second motion I am going to make is that we do an audit. I have made so many motions for audits since I have been here and none of them has ever passed, but I am hoping that whether it is an audit or an investigation of this process, and it is very difficult for me to justify that motion to all of you because I cannot share what happened. If I told you what happened over the last year and a half, I think you all would be shocked. So, I am going to make those motions today and whether it goes through the process, goes to the County Attorney. I mean, what do you think the County Attorney is going to tell us? Do not release those minutes, that is Attorney-Client privilege. Do not release it. Keep that private. We do not want that out. It will take five (5) very courageous Councilmembers to say "Sorry, Mr. Attorney, we are going to release it. We want the public to read the minutes. We want the public to know what the Council was advised to let this case get so far." We need the public to know that. Also, it will take I believe for an audit, I think we only need four (4) votes. No, we need four (4) votes unless we hire Special Counsel. An authorization for an audit only requires four (4) votes if I am not – help me Peter. Four (4) votes, right? Resolution. Four (4) votes and we can bring in an auditor, an external third party auditor or an evaluator like we have done in the past. In this case, I would suggest we hire and retain a retired Judge. Somebody with Federal experience, State experience. A Federal Judge that can take a look at how this started and where it ended up for the purpose of giving us some recommendations of how to fix this because this is broken. I have never seen a case dragged out this long only to settle. Never. In my experience here, never. I am beginning to get suspicious and I think the only way that we as a body will get to the bottom of it, Mr. Hooser, you talk about the performance of the County Attorney's Office. If we just move forward, we will never know. If we just move forward for the mutual benefit of the County, we do not achieve anything. We sweep it under the rug and we pray to the almighty Lord above that it never happens again. We have been – I will say it. We have been misled too many occasions and I think the time has come. This case is a great case to take a look and see what went wrong. Why was there such an effort to keep the Council out of the loop? Thank you, Mr. Chair.

Chair Furfaro:

Al, you wanted to be recognized?

There being no objections, the rules were suspended.

Mr. Castillo: Yes, can I be recognized? Council Chair and Councilmembers, Al Castillo, County Attorney. I need to say two (2) things. When the time is appropriate then I would like to give the County a briefing. I will give the County a briefing on how the Office of the County Attorney works. However, because this case specifically, is not complete I cannot talk about this case. I just want to give the people out there that a lot has been said and just because a lot has been said, there is always other points of view, other opinions, and fact that you will need to know, that I will be able to share to all of you at a later date and time. It is not proper for me to do so at this moment. Thank you.

Mr. Rapozo: I just have one (1) question, Mr. Chair.

Chair Furfaro: You have a question? Go right ahead.

Mr. Rapozo: Al, are you or are you not recused from this case?

Mr. Castillo: Councilmember Rapozo, like I said earlier, I am not recused. I did not declare a conflict in this case. The point person just changed on July of...

Mr. Rapozo: Again, it is very difficult for me to address my concerns here because a lot of what we discussed was in Executive Session with you.

Mr. Castillo: Like I said, that is right. Right now, for me, it is not the appropriate time and maybe for you it is not the appropriate time also, but there will be an appropriate time when I will be able to address the public.

Mr. Rapozo: I guess for me, Al, I was under the impression that you had removed yourself from the case.

Mr. Castillo: Yes, and...

Mr. Rapozo: And I think Mr. Hooser made some comments. This is in open session a while back and I think subsequent to that meeting, I thought anyway, that you had removed yourself from the case. I guess we will have to wait to get into Executive Session to discuss that. I hope this fuels or at least encourages four (4) others to approve the release of the minutes. Thank you.

Chair Furfaro: Thank you, Al.

Mr. Castillo: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Okay, my turn. I want to thank both Mr. Rapozo and Mr. Hooser for reading my quote in the Garden Island. Kaua'i Council Chairman Jay Furfaro said, "The County is looking forward to putting this complicated ordeal behind us," but please understand it means we are going to fix it procedurally as well because this case study is very, very bothersome. I also want to point out in a later part of the article there was another comment from me and

again, it says, this is the piece that is very clear. Under the terms of our insurance policy, we have a policy that we had purchased for a premium which basically says at a certain point, the insurance company has the right to settle without the Council approval. That was later down in the article. So, I just wanted to share that. I also made an interpretation of Ethic Rules, Article 20.02(b) with referencing, twice I had to refer to the Rules or the Ethic Code as it relates to this case today and I simply want to say that those are the interpretations. That is the authority given to the Chair and so that you understand, I am entitled to call a recess to consult and make the interpretation of those rules. Also, I want to remind everybody, when it comes to audit, and I am the individual that authorized the Audit Department for the County by putting it on the Charter Review. You may in advance of each year's budget, you may go to our Audit Department and ask them to incorporate a request in their budget presentation. If they do not incorporate that item, you can initiate a Resolution for him to add to his budget with a petition from the County Council. So, that is the procedure and a procedure does exist. On that note, I would like to call for a vote about going into Executive Session on these two (2) items and then I will excuse myself, turn it over to the Vice Chair for item ES-704 because I as an individual is named in that one. I would like to be able to call for the vote now on going into Executive Session, which has been my practice to go into Executive Session by a vote.

Mr. Kagawa moved to convene in Executive Session for ES-703, seconded by Mr. Rapozo, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Hooser, Kagawa, Rapozo,	
	Yukimura, Furfaro	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

Mr. Kagawa moved to convene in Executive Session for ES-706, seconded by Mr. Rapozo, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Chock, Hooser, Kagawa,	
	Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Mr. Bynum was not present.)

Chair Furfaro: On that note, I will leave. I will turn over the meeting to you. When we go into Executive Session, you folks can call me.

Chair Furfaro, the presiding officer, relinquished chairmanship to Mr. Chock.

Mr. Chock: Chair, do you want to cover ES-705 too or do you want to do that later?

Chair Furfaro: We can. I was planning on doing it later.

Mr. Chock: Okay, sure.

Chair Furfaro: It is your choice.

Mr. Chock: Alright.

(Council Chair Furfaro was noted as not present.)

Mr. Chock: Ms. Fountain-Tanigawa, can you please read ES-704 and ES-705? Let it be known for the record – oh, sorry. Let us have Al read it. Let it be known for the record, Council Chair Furfaro has recused himself for item ES-704. Thank you.

There being no objections, the rules were suspended.

Mr. Castillo: Council Vice Chair Chock and Councilmembers, good afternoon, Al Castillo, County Attorney. I will read ES-704 and ES-705?

Mr. Chock: Please.

Mr. Castillo: Thank you.

ES-704 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the County Council, to provide the Council with briefings regarding Ernesto G. Pasion vs. County of Kaua'i, et al., Civil No. 13-1-0340 (Fifth Circuit Court), and to obtain settlement authority and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-705 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing on County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation) (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Castillo: Thank you.

Mr. Chock: Thank you. So, before I take public testimony, can I have a motion to move into Executive Session for these items?

Mr. Kagawa moved to convene in Executive Session for ES-704 and ES-705, seconded by Ms. Yukimura.

Mr. Chock: Thank you. Any public testimony for these two (2) items, ES-704 or ES-705?

Ms. Fountain-Tanigawa: We have four (4) registered speakers for ES-704.

Mr. Chock: ES-704? Can you announce the first two (2)?

Ms. Fountain-Tanigawa: The first speaker is Shaylene Iseri, followed by Glenn Mickens.

Mr. Chock: Thank you. Do you have a presentation again? Six (6) minutes. Alright, thank you. You did pretty good the last one.

Ms. Iseri: We are going to do ES-704 first?

Mr. Chock: Yes.

Ms. Iseri: Okay. Shaylene Iseri on ES-704. What I wanted to bring to the attention of this Council is that on February 19, 2014, and also to the people of Kaua'i, in this matter the defendant, Defendant Furfaro who is represented by Al Castillo of the County and Mr. Sato who represents the County, filed a motion to move the case that was in State court to Federal court and the court found that there was absolutely no legal basis to do this. As you know on November 25th Pasion filed a complaint and then on December 10th the County filed a Notice of Removal from State court to Federal court and then on December 12th Defendant Furfaro also joined in the County's Notice of Removal. In this complaint, plaintiff alleged Pasion that Defendant Furfaro and the Mayor are political allies and that a fuel audit was conducted where it revealed that the Mayor used a County gas card assigned to another vehicle to purchase gas for his personal vehicle. This meant that the Mayor was using County resources and taxpayers moneys for what appeared to be a personal purpose. The plaintiff was concerned that the Mayor's conduct was a violation of law. The defendant then, according to the plaintiff and according to the findings in this order, began a pattern of adverse employment actions against Pasion which include harassment; refusing to afford Pasion Special Counsel where such Counsel would be routine; intentionally impeding the plaintiff to be able to do his job as County Auditor; ceasing, removing, and copying all computers in the Auditor's Office; and making arbitrary demands/threats to terminate or discipline an actual discipline. It appears again, that what is being claimed here is a pattern, what has been happening with the Administration because these actions all occurred against the Police Chief.

The court found that Defendant Furfaro as represented by Al Castillo and Special Counsel Sato representing the County, that they had improperly removed this case. Whereat a case is improperly removed the stand to award fees is very high because it requires a finding that the parties lacked an objectively reasonable basis for seeking removal. In this order, and it is public. It is on December 19th filed by the Federal Court Judge Pugliese, it says that the Defendant which is Chair Furfaro who was represented by Al Castillo and the County, ignored binding Supreme Court and Ninth Circuit precedent. There was exactly a case on point that prohibited the removal to State court and yet this County Attorney, as well as the Special Counsel that we paid thousands of dollars for, probably hundreds of thousands in the next couple of months, did an act that totally ignored what the Supreme Court and Ninth Circuit precedent said. It also went on to comment that the defendants were presented with multiple opportunities to review the controlling case law and to stipulate, meaning agree, to plaintiff's request to no avail. Is that three (3) minutes or six (6)? Okay. So, I will continue. Is that okay? Number three, that the defendant's position resulted in delaying the timely litigation of this case in the proper form as well as increased cost to plaintiff and this court. Thus, the court found that an award or a sanction of attorney's fees and costs for the plaintiff was appropriate. Why should the taxpayers bear any of the cost of incompetence and arrogance of this County Attorney? They continually rack up attorney's fees and get advice that are totally improper. In this matter, there was clear law that was totally against or contrary to the position of the County and after multiple opportunities by the plaintiff to settle this out of court, to work on a

stipulation, to not waste the court's time, to not waste our taxpayer's moneys in researching the law, in preparing paperwork, and in filing the documents. Despite all of those opportunities, this County Attorney, County Attorney Al Castillo as well as Special Counsel Sato, ignored all of that and instead went ahead and filed a motion that was totally contrary to the prevailing case law. That is incompetence. That is arrogance. It is my way or the highway, by the County Attorney because it is not his personal checkbook that we are talking about. It is our checkbook. It is the taxpayer's checkbook, and this is a pattern. We see this every time on the agenda about the incompetence and arrogance of this County Attorney. We have another item that is coming up with Sheehan that we had talked about last week, where Michael Sheehan came up and said, "I have been trying to work with the County. I wanted to do mediation. I wanted to work this thing out." Instead, what happened? He came up over here, they filed a motion against, they asked to try to work it out, we went to court, and the County lost one million two hundred thousand dollars (\$1,200,000) verdict in favor of Michael Sheehan. Is this how this gatekeeper allows this County Attorney to rack up all of these attorney's fees and not pay a single penny? That is why I had some concern when there was seventy-five thousand dollars (\$75,000) being requested because there was absolutely no basis for it. I am concerned that we are using taxpayer's moneys to bear the cost of the incompetence and not only looking at that, but their salaries. They get paid over one hundred fourteen thousand dollars (\$114,000) and this is the kind of work product that we put out and this is the kind of work that the County people are supposed to allow to happen? We need to take more responsibility and hold this County Attorney accountable when we are getting sanctioned for filing frivolous motions and the taxpayers are going to have to bear that burden. That is a travesty of justice and we need to stop this from happening. Over and over again, for the last several weeks, I have testified about the incompetence and the arrogance of this County Attorney, and to no avail. I hope today that this Council as has been indicated earlier, we cannot sweep things away. We cannot hide all what the County Attorney did. We have to stop the theft. We have to stop all of this money being spent wastelessly, especially as Councilmember Kagawa said, we are in a position where we are in a recession, and yet, all of this money is going to the County Attorney's incompetence. I ask that you take these comments in stride and that action be taken, not just words, but action be taken against his County Attorney and hopefully this Council will pursue legal malpractice against our County Attorney and Special Counsel because that definitely occurred in the Bynum case and is continuing as we can see in this Furfaro vs. Pasion case.

Mr. Chock:

Thank you. Next speaker, please.

Ms. Fountain-Tanigawa:
Joe Rosa.

Next speaker is Glenn Mickens, followed by

Mr. Mickens: For the record, Glenn Mickens. Thank you, Mason. Well, this is the twenty-fourth (24th) Executive Session for Mr. Pasion. This is incomprehensible to the public that anything can possibly go on this long without some resolution. All the public knows is there a person over there that has done his job with bells on. He uncovered something. He was not going after anybody in particular. He did an audit. The audit brought out certain irregularities. The finger got pointed at somebody. That was not Ernie doing that. That was how the chips happened to fall. So, now in a vengeful mode, they have to try and get rid of him. The public sits here and we still have no idea. Through all of these Executive Sessions we have no idea what he is being charged with. I think it is completely wrong. In a murder case, they will tell you whether the victim was strangled,

murdered, shot or what, but in this instance the public sits here and all we keep in hearing is now he has turned around and suing the relevant parties, trying to get redressed for it. He has spent hundreds of thousands of dollars and I think it is just completely wrong that anything like this can happen. I hope that this is definitely the last Executive Session that you folks have to go in and waste more taxpayer's money. Thank you, Mason.

Mr. Chock: Thank you. Do we have more speakers?

Ms. Fountain-Tanigawa: Yes. Joe Rosa, followed by Ken Taylor.

Mr. Chock: Thank you.

Mr. Rosa: Good afternoon members of the Council. For the record, Joe Rosa. Again, like Mr. Mickens emphasized, Executive Session number twenty-four (24). Something is going on and just last week Wednesday Council Chair Furfaro went before the Ethics Commission to look into Mr. Pasion's conflict of interest with the County. So, what is it that now they have to find cause against Mr. Pasion? Because all along there was no cause. There was suspensions. No just cause to the suspension and what for. Now, are they still looking for a just cause? They have to go before the Ethics Commission to find a wrong when there was no wrong or has not been any kind of wrongdoings other than seven (7) audits that were completed? Two (2) were known to the public so far. What are they trying to do or what is Council Chair trying to prove also? It is just a deal with personalities, personalities between people on the Council. So, get it over with once and for all. You had him suspended as it came out in the paper so that JoAnn does not doubt me. It was in the Garden Island, December 10th issue. I remember that issue one day because it was before my birthday it came out and I know about it. So, I read my paper and apparently people have been reading it because all of what happened in this morning's paper. Apparently Mel read it and like he said, he got called. So, people are aware what is going on in this Council and to let things go by way of settlement is not solving the issue. Kaua'i, the way things are going and all of these kinds of things with shows like I said from the Police Chief down to whatever it is now, there is hardly anything with the just cause. The County Council is beginning to be a laughing stock in the State over here. Now, I know you people are with integrity, so let us prove it to yourselves, to the people, and to the State, that we have people here elected with integrity. There are too many personalities going on in these Council Meetings from when I attended way back. So, it is high time you get rid of those personalities and get down to business. If people want money, they go to court. So, in this case Mr. Pasion is not seeking any money and he is not trying to sweep something under the rug. Any time you sweep anything under the rug that has to do with moneys, the Federal Bureau of Investigation (FBI) can get involved. So, be aware of that and are you willing to take jail terms for somebody else's crimes? No. Mr. Pasion is not that kind of a person. Remember, you people will be involved when it comes to sweeping anything under the rug because I work on jobs with Federal funding and it was stressed once before. When it comes to money, you cannot hide or sweep anything under the rug. The Feds will get you. Thank you.

Mr. Chock: Thank you so much.

Mr. Rapozo: I had a quick question.

Mr. Chock: Please. Mr. Rosa, we have a question here.

Mr. Rapozo:
week the Chair went to Ethics?

Mr. Rosa, you mentioned something that last

Mr. Rosa: Wednesday. They had an Ethics Board Meeting that on the Sunday's paper it says that the Chair sought a conflict of interest on Mr. Pasion. It was the 2:00 p.m. Commission's meeting at the Mo'ikeha Building.

Mr. Rapozo: Okay.

Mr. Rosa: So, I do not know if he was here in the afternoon because I did not attend last week's Council Meeting.

Mr. Rapozo: Okay, thank you.

Mr. Chock: Next speaker.

Ms. Fountain-Tanigawa: Next speaker is Ken Taylor.

Mr. Taylor: Chair and members of the Council, my name is Ken Taylor. First of all, I turned in some documents yesterday. You all received them. Thank you. It is unfortunate when lawsuits and activities take place and cost the community money, but sometimes there is reasons to settle and sometimes it is more important to come up with the facts and the rights and wrongs of what has taken place. I think that this is a prime example of when we should go all the way. Let the facts speak for themselves. Yes, it is going to cost all of us taxpayers extra money, but I think in this case the right and wrong of what has taken place is more important than the money. I think it is a necessity that you do not settle this case. You let it go to the courts and let the Judge and the jury bring out all of the information that will be brought forth so that we, the people, will have an opportunity to know. Up until now, Glenn, Joe, and myself have testified on this issue on a number of times and we have really had to sort of guess at what the heck was going on because to this date, you have not even seen fit to put on the agenda twenty-four (24) times you have gone into closed session. Not one (1) time have we even seen what the charges were or charges are. So, it is time. It is time for us to be allowed the opportunity to find out just what has gone on, what is going on, and who is right and who is wrong. That can only happen if this case goes onto court. I think it is imperative at this point that you allow that to happen. Thank you.

Mr. Chock: Thank you. Question for Ken?

Ms. Yukimura: Yes. Ken, why do you keep beating a dead horse when we have told you many times that the information is closed because Mr. Pasion has not given permission to have it disclosed?

Mr. Taylor: I do not think it is up to Ernie to turn the information loose. I believe that you make...

Ms. Yukimura: Okay, well, whatever you believe. I know you believe a lot of things.

Mr. Taylor: I believe when you make a charge, you have a right to tell the public what the charges are.

Ms. Yukimura:

Check your law, okay? Thank you.

Mr. Chock: Thank you. Any further speakers on both items? None? Do you want to speak on the other item as well? Sheehan item. Do we have anyone else signed up for hat as well, ES-705?

Ms. Iseri: Shaylene Iseri for the record. Again, as has been brought forward in previous agenda items, it appears that the concerns that were raised previously by Councilmember Hooser and others about the distrust with the County Attorney's Office is very prevalent again also in this case. As we look forward, we were here just last week when the question was posed I believe by Councilmember Rapozo, whether this matter had been concluded or it was over and Mr. Castillo represented yes, that is the end. Then, this week we have a request for one hundred twenty-five thousand dollars (\$125,000) for what? I guess it will be discussed in Executive Session, but that was brought forward at yesterday's meeting. We have numerous amounts of moneys that have been previously spent with respect to defense of this case. September 21, 2011 seventy-five thousand dollars (\$75,000), October 23, 2013 forty thousand dollars (\$40,000), August 28, 2013 twenty thousand dollars (\$20,000), August 28, 2013 fifty thousand dollars (\$50,000), October 24, 2012 seventy-five thousand dollars (\$75,000), May 23, 2012 seventy-five thousand dollars (\$75,000), October 19, 2011 seventy-five thousand dollars (\$75,000), October 19, 2011 another fifteen thousand dollars (\$15,000), and October 5, 2011 another seventy-five thousand dollars (\$75,000). If my calculations are correct, we are up to now five hundred thousand dollars (\$500,000) already spent and a request today for one hundred twenty-five thousand dollars (\$125,000). This was also another mishap by the County Attorney's Office. As was discussed previously, there were numerous opportunities to seek mediation to arrive at some resolution regarding the value of the property, but as always with this County Attorney, it is not my moneys that are being used it is taxpayer's moneys and therefore, they said, "My way or the highway. So, let us go to trial." So, I there was I believe, a trial several months ago where the jury came back and ruled against the County for one million two hundred thousand dollars (\$1,200,000). All of this, after there were numerous opportunities for the plaintiffs to engage in discussions with our County Attorney, but it appears that if you are not one of their favorites, then they do not want to say anything to you. Like in the Pasion case when there was clearly controlling precedent opposing their views, despite that, they took and wasted our taxpayer's money for a hearing. Likewise here, I believe Councilmember Kagawa had brought forward a request to place on the agenda or ask regarding mediation as Mr. Sheehan was seeking mediation as a cheaper form of trying to resolve the issues with the County. I have yet to see that. Instead, we see another request for over one hundred thousand dollars (\$100,000). Money just flies out of this County's pocket at the request of the County Attorney's Office. I mean, we just saw it last week with five hundred thousand dollars (\$500,000), this week seventy-five thousand dollars (\$75,000), and this week one hundred twenty-five thousand dollars (\$125,000). It is just outrageous and if you look at the pattern, it has begun with this County Attorney. It was not like this before. It was not like this, where there was a lot of litigation. It is the County Attorney that is creating...

Mr. Chock:

There (3) more minutes.

Ms. Iseri:

Three (3) more minutes?

Mr. Chock:

Yes.

Ms. Iseri: It is this County Attorney that is creating the litigation for our taxpayers and there needs to be some serious inquiries by this Council because it appears that the checks and balances are not working out, that the system is flawed or they system is broken as have been previously stated. I understand about a lot of these issues. You are right. There are a lot of strategies that is involved, but when the County Attorney maintains control over the cases and they hire Special Counsel to do their dirty work and have their staff get paid one hundred thousand dollars (\$100,000), and I believe they have a staff of about eight (8) right now. Why do we need the County Attorney's Office? Just hire Special Counsel because it appears, from what Councilmember Hooser said, that the distrust has been irretrievably broken, that you cannot trust that the County Attorney comes up and represents to you. This is all recorded. I can go back on numerous meetings where he has made a statement one day and several meetings later, made a totally opposite statement. It is documented evidence time and time and time again. Again, I request for this Council to seek an investigation, perhaps a 3.17, perhaps an audit, but definitely the moneys from our taxpayers need to be protected and when it goes into the hands of the County Attorney, it is the fox watching the hen house and we have chickens that no one is watching, running around without heads and he is doing whatever he wants. There has to be some accountability as you heard last week. Even the Finance Director was there and said, "I do not have any oversight. I sign the contracts that he signs. He has total control over what he does with all of these contractual terms." Definitely be more involved so that the County Attorney is not able to pull the wool over our eyes and this secrecy or this cloak of secrecy in that office is exposed so that competent people can be hired and can maintain and preserve the County's interest and not work adverse to the County. Thank you.

Mr. Chock: Thank you. Anyone else on item ES-705?
Mr. Taylor.

Mr. Taylor: Chair and members of the Council, my name is Ken Taylor. In light of the questions that were asked earlier on another item where our County Attorney's Office was not able to identify how much money had been spent on a particular issue, I would like to ask the Council to consider requiring when the Attorney's Office comes and asks for additional funds, that they keep a running tab so that the public can know and understand. Like in ES-705, today we are asking for one hundred twenty-five thousand dollars (\$125,000) more. One hundred twenty-five thousand dollars (\$125,000) more on top of what? There is no way in the world that the public can have any idea and if you required and since you are the keepers of the keys for the purse strings of the finances of this County, I think you have an obligation to the community to require the Attorney's Office to keep a running tab so that when they come in and ask for one hundred twenty-five thousand dollars (\$125,000) additional funds, it is on top of say three hundred thousand dollars (\$300,000) or two hundred thousand dollars (\$200,000) or one hundred thousand dollars (\$100,000) or seventh-five thousand dollars (\$75,000) or fifteen thousand dollars (\$15,000), whatever previous numbers were. Keep a running tab so that it be posted in the agenda item so the public can be made aware of how much money these activities are costing us. Thank you.

Mr. Chock: Thank you. Anyone else? Discussion.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Mr. Chock:

Councilmember Yukimura.

Ms. Yukimura: I would like to speak on both items. There is a time and place for everything and it is very trying for us who sit on the Council not to be able to speak our position, which is based on evidence and information which is not yet disclosable to the public. Now is not the time, and the time will come. I think people will be able to see all of the facts and come to their conclusion. I can say something on what is public record. I read only last night the Federal court's decision about the County's position in trying to remove the Pasion case to the Federal court and I am very disappointed at the County's performance, but I want to say with respect to Ms. Fazio who is the Special Counsel to the County in the Sheehan case, she was extremely competent in handling the case and I look forward to the time when we will be able to disclose all the facts about that.

Mr. Chock: Thank you. Any further discussion?
Councilmember.

Mr. Rapozo: Thank you, and it is actually a question. Last week Mr. Sheehan was here and he had made some comments to the fact that the case was far from over. You all were here. Mr. Sheehan came up and he was talking about as if the case was ongoing and I did call up Al and ask Al after Mr. Sheehan spoke. Al said that the case was over to his knowledge that the case had been over pending an appeal. I did read the folder, JoAnn, but that brings me to a question. Is this money for existing bills? I guess we can have Al come up. Is this money to pay – no. Why would we go into Executive Session, for the public to know if we are paying outstanding bills? I am not asking specifics on the case. I read Ms. Fazio's communication and I am too, very happy with her performance. I just want to know if we are going to be approving money for existing outstanding bills, which we have not approved or – this is based on Mr. Castillo's testimony last week, that the case was done and we show up today with a request for one hundred twenty-five thousand dollars (\$125,000). Do you understand, JoAnn? Are you not confused? Okay, then please let me ask the question.

Mr. Chock: Okay, let us have the question answered.

Mr. Rapozo: Thank you. We keep sweeping things under the rug. Let us do it today. Today is the day.

There being no objections, the rules were suspended.

Mr. Chock: Mauna Kea, can you answer the question?

MAUNA KEA TRASK, Second Deputy County Attorney: Aloha, thank you. Honorable Vice Chair and Councilmembers, for the record, Deputy County Attorney, Mauna Kea Trask. I apologize. I was outside the room at the moment. What was the question?

Mr. Rapozo: Okay, let me break it down for you, Mauna Kea. Thank you for being here.

Mr. Trask: Thank you.

Mr. Rapozo: Last week we had a discussion on the Sheehan case. Mr. Sheehan showed up last week. Mr. Sheehan in his testimony,

was speaking as if the case was ongoing and I asked Mr. Sheehan, "Is this case ongoing" and he said, "Oh, yes. It is far from over." I was under the impression that this case was done. So, when Mr. Sheehan sat down I asked Al and Al said that the case in his mind, was done unless somebody appealed the case. Now, obviously I have read and it does not seem like an appeal has been filed, but today, one (1) week later, we are being asked for one hundred twenty-five thousand dollars (\$125,000). I want to know if that one hundred twenty-five thousand dollars (\$125,000) is for – that is five dollars (\$5), Gary Hooser.

Mr. Castillo: Let me say something first.

Mr. Chock: Sorry for the interruption.

Mr. Rapozo: (*What song is that?*) My question is, is the one hundred twenty-five thousand dollars (\$125,000) request today, which is tied to this Executive Session, is it for moneys that we owe, old bills, or is it – I do not know what is pending. There is no appeal so I am trying to figure out what this one hundred twenty-five thousand dollars (\$125,000) is for.

Mr. Castillo: Council Vice Chair and Councilmembers, for the record, Al Castillo, County Attorney. I just would like to straighten out for the record that Mauna Kea Trask was not here the last time and I did not say that it was my understanding that the case was done. I do not know whether or not the time has lapsed for the appeal. So, that was my understanding of the case. Now, Mauna Kea is here. He will be able to tell you what the status of the case is and I am sure he will be able to tell you what the money is for. Thank you.

Mr. Chock: Thank you.

Mr. Rapozo: Well, Al, you did say last week that it was your belief that the case was done and you could not tell if in fact – anybody can appeal is the words you used, and we do not know if they are going to file an appeal. That is what you said.

Mr. Castillo: Yes, so there is a time period for an appeal and I do not know what was happening for that. So, Mauna Kea had that information.

Mr. Rapozo: I understand. The question, Mauna Kea, is this money to pay old bills or is this money for activities and actions that is pending? Please do not tell me you do not know because I have had enough of "I do not know" from your office today. I mean seriously. Do not take this personal, but it has always been my position that if we pay you one hundred thousand dollars (\$100,000) a year, "I do not know" is not acceptable.

Mr. Trask: Okay.

Mr. Rapozo: I just want to know is this money going to be – the request is coming from you Mauna Kea.

Mr. Trask: Yes.

Mr. Rapozo: Your office, is this to go pay outstanding bills?

Mr. Trask: Thank you. Regarding the payment of the bills, I would just request that today is the Executive Session for this matter. I would like to speak with you folks in Executive Session first just in an abundance of caution. I do not make one hundred thousand dollars (\$100,000) a year. I wish I did.

Mr. Rapozo: Yes, so you are off the hook. You can say, "I do not know," but somebody in your office should.

Mr. Trask: Actually, I have the paperwork here. I asked Special Counsel to prepare a memorandum for you, which was provided to you before today, I believe, yesterday afternoon. I would just like to speak with that, with you in the back first. Regarding the status of the case, the jury trial occurred and was finished November 2013. After that, there was a motion filed to determine blight of summons damages because of the circumstances of the case. After that motion was granted by the court, Mr. Sheehan's attorney, Mr. Wilson, filed a motion for reconsideration of the court in determination of blight of summons damages. Our Special Counsel answered that motion and I believe, I think in the middle of last week, the court rendered an order. So, I think that would have been the final motion. The case is at the Circuit Court level, I believe it is done and an appeal would be thirty (30) days after that order, is my current understanding as a matter of public record. Regarding the money, again, because of the posting and then subject of the Executive Session, whatever you folks do with that information after that is your *kuleana*. I just would like to answer it back there first.

Mr. Rapozo: Is the payments to Special Counsel not public?

Mr. Trask: Again, I...

Mr. Rapozo: I mean, it is their money.

Mr. Trask: I understand.

Mr. Rapozo: Help me out because I could be wrong, but I am just trying to find out a very simple question. Last week, in another agenda item, it was answered by your office, not for this item. I am just trying to find out if in fact we are again approving funds for work that was already done, which I believe is a violation of the contracts. That is the bigger issue for me.

Mr. Chock: Can that question be answered "yes" or "no" and then we can get the details in there?

Mr. Trask: Can I just have a moment, please?

Mr. Chock: Sure.

Mr. Trask: Thank you.

Mr. Chock: Do you want a recess?

Mr. Trask: No.

Mr. Chock: We are running so let us get this show on the road. Mauna Kea.

(Mr. Bynum was noted as present.)

Mr. Trask: Thank you. Again, for the record, Deputy County Attorney, Mauna Kea Trask. In order to respond to your question, Councilmember Rapozo, the total amount due to Special Counsel at this time is one hundred fifteen thousand twenty-five dollars and ninety-nine cents (\$115,025.99). I believe the remainder is for unbilled costs up until this point and finalizing some other things. I have it in the memorandum over here.

Mr. Rapozo: Thank you, Mauna Kea. So, the money that you are requesting today is to pay one hundred fifteen thousand twenty-five dollars and ninety-nine cents (\$115,025.99) for bills that we have received from the attorney?

Mr. Trask: Correct.

Mr. Rapozo: I do not know how long it takes to rack up that bill from Ms. Fazio, but is that like a month, two (2) months, or three (3) months? What is the typical monthly bill from Special Counsel like this?

Mr. Trask: It is not a typical – I do not know how to...

Mr. Rapozo: I do not think it is a month, right? I do not think it is a month and bear with me because I think it is important. To rack up one hundred fifteen thousand twenty-five dollars (\$115,000) in bills, that is several months. I would hope. I would think. I guess my point is this, we are required a six (6) day posting by Sunshine Law, six (6) days. The contract says that the attorneys cannot work for more than what the contract amount is. These attorneys, and this not just one (1), not two (2) or not three (3). It seems like every single Special Counsel case we have, the attorneys are allowed to work beyond the amount of the contract. One hundred fifteen thousand twenty-five dollars (\$115,000) I would believe, is probably quite a few months and if they are not submitting the bills to the County Attorney so they can get the posting here so that we can approve the money, then they are in violation of the contract, the private Special Counsel. I do not know if you folks think I am overacting, but when we hear from the Finance Department that we are broke, and all of these unexpected expenditures keep popping up, I do not know. Maybe you folks are not concerned. I am. Thank you.

Mr. Chock: Thank you, and I think that we all agree and are concerned. I think that we have heard the message really clear. Councilmember Yukimura.

Ms. Yukimura: Well, according to my information, part of it is the cost of the valuation expert hired by the County who testified at the trial on behalf of the County. So, I mean, that is some of the costs and you know what, if that is what it takes to get Black Pot Beach Park expanded, I am okay with that.

Mr. Rapozo: JoAnn, you are not reading from the confidential document?

Ms. Yukimura: No.

Mr. Rapozo:

Oh, okay, because mine says “confidential.”

Mr. Chock: I would like to get this moved to Executive Session if we can. I would like to recognize that Councilmember Bynum just entered the room as well. If there is no other further discussion, I would like to call for the vote. No one else? No questions?

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Chock: I have not spoken on any of the Executive Sessions and just a general statement. Being here for a short time is – in general, I agree with everything that everyone has said in terms of the points that were made. I probably disagree to some extent upon the approach that is being taken here. My hope, my wildest dreams would be that we do not get to this point or have to get to this point. I know that is a wild dream, but that is what I would work towards in the future. Of course, that is focusing on competency levels to one degree and I think that that is something that we can work towards. My hope is that we can work towards that. The other thing is that I cannot wait to get the truth. The truth is I do not if it can be decided in court of what the truth is, but whatever happens is that you folks have the ability soon, and obviously not yet through our own process, to get this vetted out through requesting Executive Session minutes as well as any other court documents that you want once it is settled. It is a sad, sad situation, but let us look forward like Councilmember Hooser said, to get better at this. If there are no other comments, can we have a roll call?

The motion to convene in Executive Session for ES-704 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Chock, Hooser, Kagawa	
	Rapozo, Yukimura	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Furfaro	TOTAL – 1.

(Chair Furfaro was not present.)

Ms. Fountain-Tanigawa: Six (6) ayes. The next item is ES-705.

Mr. Kagawa: We already had a motion on that one.

The motion to convene in Executive Session for ES-705 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Chock, Hooser, Kagawa	
	Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Mr. Chock: So, we will move to Executive Session. Three (3) minutes, is that okay?

There being no objections, the Council recessed at 4:06 p.m. to convene in Executive Session.

The meeting was called back to order at 6:05 p.m., and proceeded as follows:

(Council Chair Furfaro was noted as present.)

(Ms. Yukimura was noted as excused.)

Mr. Chock: Out of Executive Session, we have two (2) items that we need to vote on this evening. Can you please read the item?

C 2014-56 Communication (02/14/2014) from the County Attorney, requesting authorization to expend up to \$125,000 for Special Counsel's continued services provided in County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation) (Fifth Circuit Court), and related matters.

Mr. Chock: Thank you. We had discussion on this as well as public input on this as well. I need a motion to approve.

Mr. Hooser moved to approve C 2014-56, seconded by Mr. Kagawa.

Mr. Chock: We have a motion to approve and a second. Roll call? Roll call vote, please.

The motion to approve C 2014-56 was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chock, Hooser, Kagawa	
	Rapozo, Furfaro	TOTAL - 6,
AGAINST APPROVAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Yukimura	TOTAL - 1,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Mr. Chock: Motion passes. Can you help direct me to where we are moving here?

C 2014-57 Communication (02/14/2014) from the County Attorney, requesting authorization to expend up to \$15,000 for Special Counsel's continued services provided in Kaua'i Springs, Inc. vs. County of Kaua'i, et al., Civil No. 07-1-0182 and Kaua'i Springs, Inc. vs. Planning Commission of the County of Kaua'i, Civil No. 07-1-0042 (Fifth Circuit Court), and related matters: Mr. Hooser moved to approve C 2014-57, seconded by Mr. Kagawa.

Mr. Chock: Moved to approve and a second. Do we have public testimony on this item?

There being no objections, the rules were suspended to take public testimony.

There being no public testimony, the meeting was called back to order, and proceeded as follows:

Mr. Chock: Seeing none, roll call.

The motion to approve C 2014-57 was then put, and carried by the following vote:

FOR APPROVAL:	Bynum, Chock, Hooser, Kagawa	
	Rapozo, Furfaro	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Council Chair Furfaro was noted as excused.)

LEGAL DOCUMENT:

C 2014-59 Communication (02/14/2014) from the Housing Director, recommending Council approval of a Right-of-Entry Agreement with Shioi Construction, Inc., for the purpose of granting access to the Rice Camp parcels, to provide Shioi Construction, Inc. with access to start construction mobilization work in preparation for the construction of the Rice Camp Senior Housing project, situated at Tax Map Key (TMK) Nos: (4)3-6-009-001 and (4)3-6-004-009.

- Right-of-Entry Agreement

Mr. Bynum moved to approve C 2014-59, seconded by Mr. Rapozo.

Mr. Chock: Any public testimony on this item?

There being no objections, the rules were suspended to take public testimony.

There being no public testimony, the meeting was called back to order, and proceeded as follows:

Mr. Chock: Seeing none, further discussion Councilmembers?

The motion to approve C 2014-59 was then put, and carried by a vote of 5:0:2 *(Ms. Yukimura and Council Chair Furfaro were excused).*

Mr. Chock: Motion passes.

CLAIMS:

C 2014-60 Communication (02/18/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Michael and Rosita Fitzgerald, for damage to their property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-60 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Kagawa.

Mr. Chock: We have a motion and a second. Public testimony on this? Seeing none, further discussion Councilmembers?

The motion to refer C 2014-60 to the County Attorney's Office for disposition and/or report back to the Council was then put, and carried by a vote of 5:0:2 *(Ms. Yukimura and Council Chair Furfaro were excused).*

Mr. Chock: Motion passes. Next item, please.

C 2014-61 Communication (02/18/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Josha Courtney, for personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2014-61 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Kagawa.

Mr. Chock: Any public testimony on this item? Seeing none, further discussion?

The motion to refer C 2014-61 to the County Attorney's Office for disposition and/or report back to the Council was then put, and carried by a vote of 5:0:2 (*Ms. Yukimura and Council Chair Furfaro were excused*).

Mr. Chock: Motion passes. Where are we going next?

Ms. Fountain-Tanigawa: If we could go back to page 2, we have C 2014-53 and C 2014-54.

Mr. Rapozo: Mr. Chair, C 2014-53 was the discussion on the finance and that was not completed, correct? They were supposed to come back at 4:00 p.m. Are we just going to defer this or refer it? I would suggest to refer it to the Committee and take this off of the Council agenda.

Mr. Kagawa: Yes.

Mr. Chock: So, do we have a motion on the table?

Mr. Rapozo: I can make a motion.

Mr. Rapozo moved to refer C 2014-53 to the March 5, 2014 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, seconded by Mr. Kagawa.

Mr. Chock: Any discussion? Yes?

Mr. Bynum: I have a question.

Mr. Chock: Yes.

Mr. Bynum: When you that meeting be? Next week?

Ms. Fountain-Tanigawa: This would be March 5th.

Mr. Bynum: I support that.

Mr. Chock: Any public testimony on this item? Seeing none, further discussion?

Mr. Kagawa: Yes.

Mr. Chock: Yes, please.

Mr. Kagawa: I would like to thank Steve and Ernie for getting us all abreast and getting the public abreast on the situation we are headed into. The budget is going to be a tough process, but like we had had last year, I am sure we can somehow work our way through it.

Mr. Chock: Councilmember Bynum.

Mr. Bynum: Just that I do appreciate Mr. Hunt who came in to the position at a difficult time and has really performed extremely well I believe, and kept us updated. We got his overview. I think this is a very important item and I am glad it can move to the 5th because that would be before they submit the budget on the 15th and this is an opportunity for Councilmembers to discuss their approach their approach to the budget. So, I am really glad that we can do it next week when everybody is present and has an equal opportunity. Thank you.

Mr. Chock: Great. We have a motion to refer to the March 5th meeting was which time we can have Steve and Ernie back for further discussion.

The motion to refer C 2014-53 to the March 5, 2014 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee was then put, and carried by a vote of 5:0:2 (*Ms. Yukimura and Council Chair Furfaro were excused*).

Mr. Chock: Motion passes. Next item, please.

C 2014-54 Communication (02/05/2014) from the Executive on Transportation, requesting Council approval to receive, indemnify, and expend the Federal Transit Administration (FTA) Section 5311 funds provided to the County of Kaua'i in the amount of \$150,000 to support public transit operations: Mr. Bynum moved to approve C 2014-54, seconded by Mr. Hooser.

Mr. Chock: We have a motion to approve here. I know Celia is not here. Obviously, she is gone for the day. Any public testimony on this? Any further discussion on it? Does anyone need here back to discuss this at another time? So, we will move forward on the motion.

The motion to approve C 2014-54 was then put, and carried by a vote of 5:0:2 (*Ms. Yukimura and Council Chair Furfaro were excused*).

Mr. Chock: Next item, please.

RESOLUTIONS:

Resolution No. 2014-07 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (*Bradley M. Maruyama*): Mr. Kagawa moved to adopt Resolution No. 2014-07, seconded by Mr. Rapozo.

Mr. Chock: Great. We are going to approve Brad Maruyama. Roll call on this item, please. Is there public testimony first? Sorry. Further discussion? Councilmember Kagawa.

Mr. Kagawa: Yes. I would like to thank Bradley for serving. I would like to thank Paula for finding a great candidate again. She is doing a wonderful job with some solid candidates. I think our Commissions are stronger than ever. So, again, I want to thank Bradley. I am going to supporting his nomination.

Mr. Chock: Councilmember Bynum.

Mr. Bynum: I just want to concur with Councilmember Kagawa. Bradley is an excellent addition to what is already a fine Commission. This is good for Kaua'i. Thank you.

Mr. Chock: Thank you. Any other discussion on the appointment of Brad Maruyama? Seeing none, we will do a roll call on this item, please.

The to adopt Resolution No. 2014-07 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa,	
	Rapoza	TOTAL – 5
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Chock: We have a Resolution also. This is JoAnn's Resolution. Did you want to wait until she comes back or move on? Thank you.

Resolution No. 2014-08 – RESOLUTION ACKNOWLEDGING THE NECESSITY TO EXPEDITE PERMIT PROCESSING FOR WORKFORCE HOUSING: Mr. Hooser moved to adopt Resolution No. 2014-08.

Mr. Rapozo: Mr. Chair.

Mr. Chock: Yes.

Mr. Rapozo: The amendment was made for the five (5) years? So, the five (5) year is – was that amended? Oh, the proposed draft was three (3)? She did change it.

Mr. Rapozo seconded the motion to adopt Resolution No. 2014-08.

Mr. Chock: Second on that motion. Yes, it says five (5). Public testimony on this item? Yes, this is just merely an update on the Resolution that was originally proposed. Further discussion Councilmembers? Great. Roll call for this, please.

The motion to adopt Resolution No. 2014-08 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapoza	TOTAL – 5
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes, two (2) excused.

Mr. Chock: Are we moving to Bills for First Reading?

Ms. Fountain-Tanigawa: Yes.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2533) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the County Attorney, Special Counsel - \$75,000*): Mr. Rapozo moved to receive Proposed Draft Bill No. 2533 for the record on first reading, seconded by Mr. Kagawa.

Mr. Rapozo: This was the one, Mr. Chair, that Chair Furfaro said was going to be reposted.

Mr. Chock: Okay, that is right.

Mr. Rapozo: That the language was going to change in the communication as well as the Bill.

Mr. Chock: Thank you for updating me on this.

Mr. Hooser: Chair, I just have a question.

Mr. Chock: Okay, thank you.

Mr. Hooser: A question, I guess, for the County Attorney.

Mr. Chock: Al, can you come up for us?

Mr. Hooser: Yes, question for the County Attorney.

There being no objections, the rules were suspended.

Mr. Chock: Oh, he exited the building. Jennifer coming in? We have a question, Jennifer, on Proposed Draft Bill No. 2533 by Councilmember Hooser.

Mr. Hooser: This is the seventy-five thousand dollars (\$75,000) budget item and during earlier discussion it was thought to defer this and resubmit it or something. So, my question is, are there any tangible impacts that we need to be concerned about if this is not approved today with regard to would it delay any litigation or delay us hiring?

Ms. Winn: We have a little bit of money in our Special Counsel fund still. It was thought to be for something, we wanted it for something else, but it is not encumbered, I do not think at this point.

Mr. Hooser: Okay. This item does not identify what the money is being spent for, this seventy-five thousand dollars (\$75,000) that is here.

Ms. Winn: The intention is for the Syngenta Seeds case.

Mr. Hooser: But I am just saying that it does not say what it is for.

Ms. Winn: Oh, okay.

Mr. Hooser: I just want to make sure that if it is not, that it does not unduly or negatively impact that case or any other case for that matter, but you are saying that there should be sufficient funds to cover our needs if this is postponed for a week or two?

Ms. Winn: For a week or two, sure.

Mr. Hooser: No, I am just – because I do not want to support a deferral if it is going to cost us more money because the ball gets dropped in some case we are working on.

Ms. Winn: Right.

Mr. Hooser: Thank you very much.

Ms. Winn: You are welcome.

Mr. Hooser: Thank you, Chair.

Mr. Chock: Any further questions for Jennifer?

Mr. Rapozo: No, no. No question.

Mr. Chock: No, okay. I just wanted to clarify. We are moving to receive here, not to defer. Good. Thank you, Jennifer.

Mr. Chock: Go ahead Councilmember Rapozo.

Mr. Rapozo: I just wanted to clarify that it is a receipt. The posting for the communication that accompanies the Bill was faulty. Obviously, if we are not telling the public what we are asking money for, it is a defective posting. So, the accompanying Bill, in my opinion, would also be defective. So, that is why I made the motion to receive. Thank you.

Mr. Chock: Thank you. Anyone from the public want to speak on this item? Oh, so sorry. We will bring it back. Seeing none, Councilmember Bynum, further discussion on this?

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Bynum: I admit to not understanding why we would be receiving this Bill. I did not hear the Chair say he wanted this Bill received today. I could be wrong, but I feel uncomfortable making a vote when I am not grounded and I am not grounded on why we are receiving this. If people can enlighten me further.

Mr. Hooser: Yes, I would be happy to. There was a lot of discussion about the fact that this money was not identified, the project I should say, in the communication and that the Chair said he would like to repost it and have further discussion later. That is the short story.

Mr. Bynum: Okay.

Mr. Hooser: Prior, there had been a five hundred thousand dollars (\$500,000) request from the County Attorney's Office and why was this not included in that? So, there was quite a bit of discussion that went on about this.

Mr. Bynum: Apparently I was not present for that discussion today, but I just wanted clarification so I was not making a vote in the blind here.

Mr. Chock: Thank you. Further clarification from Councilmember Rapozo, please.

Mr. Rapozo: The issue was one of the Sunshine Law requirements, that is why the Chair asked to receive that because it does not say. Although there was an intent to use the funds for a specific purpose, it almost seems like this was just so that the public would not know that it was a Bill No. 2491, Draft 2 or Ordinance No. 960 for the Syngenta lawsuit money. I believe that the public needs to know and I think that when these things are posted like that, again, it brings up some questions as to what the five hundred thousand dollars (\$500,000) that was approved last week is for and I would ask that staff send over a communication to the County Attorney asking for a breakdown of what those funds are being used for. I guess I cannot stress enough the fact that Chapter 92 of the HRS. That Chapter is there for that specific purpose, so that the public has an opportunity to come and testify, present testimony and if we do things like this, then they will never know and I do not think it is good practice. I think it is almost illegal if we do that and we have to be really careful. I encourage everyone to receive this and have it posted properly the next time.

Mr. Chock: So, just to clarify, we are going to have more information sent to us within the next week or two from the Attorney's Office.

Mr. Bynum: I just want to make sure I understood what the action the Council is taking because I do not recall hearing the Chair ask for this. But is this not replenishing the Special Counsel Fund, right? Then we deal with specific case by specific requests, so I am a little confused, but I will go along with the will of the Council here.

Mr. Chock: And I think that is sort of the reason for the questioning, is to get a little bit more clearer as well from them in terms of what it is specifically there.

Mr. Bynum: I just do not know that it has been out routine when we are refilling to pot, to say what it is for. We have separate motions to do that. I will wait until this comes back on and then I will have time to meet with people and get more grounded. Thank you.

Mr. Chock: Councilmember Rapozo.

Mr. Rapozo: The reality is we are not refilling the pot. This money is to be paid to the Special Counsel for the Syngenta lawsuit. If we were just refilling the pot, I would be approving this tonight, but that is why I am having a problem. We were led to believe that this is to refill the pot, but in reality, this is to write a check to Special Counsel for a specific case. So, it is not refilling the pot as it is listed. So, that is a big problem that needs to be fixed.

Mr. Bynum: Well, I will support the receipt so we can move on with this. Thank you for your patience.

Mr. Chock: Further discussion? Councilmember Hooser.

Mr. Hooser: I hate to belabor this, but I think the reason is because we do not have a good explanation. So, it could be replenishing the pot, it could be just a pass to identify, and we need further discussion on this.

Mr. Chock: Anything further? We are going to do a roll call for this item, please.

The motion for receipt of Proposed Draft Bill No. 2533 for the record on first reading was then put, and carried by the following vote:

FOR RECEIPT:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST RECEIPT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Good. Moving to Bills For Second Reading.

BILLS FOR SECOND READING:

Bill No. 2515, Draft 1 – A BILL FOR AN ORDINANCE AMENDING SECTION 21-9.2 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT

Mr. Chock: Thank you. I just wanted to say we had this last week. I supported moving it to April 23, 2014 and the motion did not go through properly. So, it is moved to this week. We also heard from Director of Finance and his intentions today. So, I want to open it up for discussion.

Mr. Rapozo moved to receive Bill No. 2515, Draft 1 for the record on second and final reading, seconded by Mr. Kagawa.

Mr. Chock: Motion to receive and a second. Go ahead, Tim.

Mr. Bynum: I do not want to belabor this either. We have been trying to get all of the Councilmembers in a room to have a vote on this. I thought that was going to happen today. I want to disclose that I was told while I was traveling that this was deferred to April 23, 2014. That was just a miscommunication, no problem. So, I was prepared to say today, let us have the vote, let us not belabor this, but we do not have five (5) members here again. So, I would request that we defer this, a regular deferral, for two (2) weeks so we can have five (5) members or if there was the will of the Council when I was absent to move it to April 23, 2014, do that, but do not kill it. I would just like not receive it.

We did not finish our discussions with Steve today. We clearly need revenue options. Let us keep this option open. I would like to get it to the full Council and if I lose, I lose and if I win, I win.

Mr. Chock: Councilmember Hooser, followed by Councilmember Rapozo.

Mr. Hooser: I am inclined to support a motion to defer for the reasons stated. We did not finish our discussion today and I think that would be very useful to finish that discussion before we dealt with this item.

Mr. Chock: Councilmember Rapozo.

Mr. Rapozo: This is the full Council Meeting. As Mr. Bynum just said, he wants to see it get to the full Council. This is the full Council Meeting. The Chair has to leave for a social function and JoAnn had to leave to go pack to go to a trip. I am not into this, if we do not have the votes, let us defer. If we do not have the votes my way, let us defer. No. We call for the question today because we cannot just defer until to have enough. That is not how democracy works. We had the discussion. We saw the charts. Yes, we are in trouble, but I think as Mr. Kagawa pointed out in the Committee, we are paying the highest tipping fees already. I think if you talk to any small business owner or business owners here that rely on charging tipping fees, that cost is going to be passed through to the consumer. We are tapped out again as I have said many times. We keep getting the proposals for revenue enhancements as it is called. It is called tax increases or fee increases, but we do not see the corresponding attempts to reduce expenditures. This is going to be interesting because we do not have the votes to do either way. We do not have enough votes for a deferral and we probably do not have enough votes to kill it. So, this is going to be interesting, but I am just saying...

Mr. Chock: Councilmember Bynum.

Mr. Bynum: We have had 3:3 and we can do that again. Let us just play it out and see what happens.

Mr. Hooser moved to defer Bill No. 2515, Draft 1 seconded by Mr. Bynum.

Mr. Bynum: Call for the question.

Mr. Chock: No discussion. Roll call, please.

The motion to defer Bill No. 2515, Draft 1 for the record was then put, and carried by the following vote:

FOR DEFERRAL:	Bynum, Chock, Hooser	TOTAL – 3,
AGAINST DEFERRAL:	Kagawa, Rapozo	TOTAL – 2,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: 3:2.

Mr. Chock: Thank you.

Mr. Rapozo: I call for the question on the motion to receive.

Mr. Chock: Roll call for the motion to receive.

The motion to receive Bill No. 2515, Draft 1 on second and final reading was then put, and carried by the following vote:

FOR RECEIPT:	Kagawa, Rapozo	TOTAL – 2,
AGAINST RECEIPT:	Bynum, Chock, Hooser	TOTAL – 3,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Bynum: This one comes back in two (2) week, yes?
That is democracy in there.

Mr. Rapozo: I believe it shows up as a Special Order of the Day on the next meeting. It does not defer. It shows up as a Special Order of the Day at the next meeting.

Mr. Chock: Okay, we will see it again. It is just a Bill that will not go away. Please, next item.

(Ms. Yukimura was noted as present.)

Bill No. 2516, Draft 2 – A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE UNDER CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED BARKING DOGS: Mr. Bynum moved to adopt Bill No. 2516, Draft 2 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Mr. Chock: Perfect timing Councilmember Yukimura. We are talking about barking dogs. Oh, Penny is here. Penny, can I ask you to come up as well? I just wanted to bring you up for any further questions. I know that we have been working hard on this over the past few months. Do you have any comments to share or to review for the Council?

There being no objections, the rules were suspended.

PENNY CISTARO, Kaua'i Humane Society Executive Director: For the record Penny Cistaro, Kaua'i Humane Society. I have no additional comments, but I am available to answer questions.

Mr. Chock: Councilmembers, any questions for Penny since she is here? No questions. Thank you for being here. Since we have Penny up here, any public testimony on this item before we move forward for further discussion?

There being no testimony, the meeting was called back to order, and proceeded as follows:

Mr. Chock: Councilmembers, discussion on the barking dog. Councilmember Hooser.

Mr. Hooser: I want to commend Councilmember Yukimura for introducing the measure. These are one of those issues that have been needed and the problem and the issues have been festered a long, long time, many, many years. I got involved in this fifteen (15) or sixteen (16) years ago and it was an issue then. Like all the members here, I had many calls over the years from people living in homes who talk about not being able to sleep at night and this dog tied up outside their window day after day, and just pleading, literally pleading, for help. This Council has not been able to help them up until this point. This is the kind of issue that most would argue would be a controversial issue, one of those divisive issues, but the way Councilmember Yukimura handled it, that turned out not to be the case. Certainly, not everybody is happy and it is like that with any Ordinance we pass, but I just want to commend her for taking initiative number one, to put it forward, but number two, rally managing the process so we have a Bill that is here before us today that I believe is going to pass to the benefit of the community. Thank you.

Mr. Chock:

Thank you. Councilmember Bynum.

Mr. Bynum: I always wanted to tell this story, so I am going to do it right now. Thank you to all of the constituents who contacted me about this issue over the years and one (1) woman in particular, I will never forget this call. This woman said, "Councilmember Bynum, please help me. I am about to (*barking*)."

This high yapping sound that went on every three (3) seconds throughout the rest of the call and she said, "I am about to commit a crime. I cannot take it any longer. I am going to go euthanize this dog." She was very sincere and asking for help. I have not been able to say "yes" to her. I will not belabor this. At the end of the call, I was absolutely convinced we needed an Ordinance, but this is about incessant barking. This is not about what we all understand is a normal course of business and I just want to echo what Councilmember Hooser said. I was warned by every Councilmember, do not ever put a Barking Dog Ordinance on. Do it at your own because it will be a thankless task and Councilmember Yukimura took that on. I think because of a good process, we did not have the contention everybody predicted and it will be a law that is applied judiciously and reasonably. Thank you, Councilmember Yukimura. I intend to vote in support today.

Mr. Chock:

Thank you. Councilmember Kagawa.

Mr. Kagawa: Well, as with every controversial topic I always end up conducting my own polls out there. We all different circles of friends and supporters and for me, there were more on the side who were opposed to passing a Barking Dog Bill. The reason why they are opposed is that they do not trust that it will be just confined to incessant barking. They are afraid that this will allow neighbors to complain about their dogs barking when they are barking at people walking by or other dogs or what have you. I just believe that for me, I need to vote on my feeling on whether this Bill will work or not. My feeling tells me that this Bill will cause more problems than good. It will create an avenue for neighbors to not work out problems and instead call the Kaua'i Humane Society, call the Police Department to try and fix their problems and it will just get worse. I think it will create harsher tension among neighbors and I feel like something ends to be done about incessant barking, about people who do not treat their neighbors with respect, but I just feel like the Kaua'i Humane Society and the Police Department is not ready right now, to take on the on slot of calls that they will be getting. We will see. It appears that it is going to pass anyway, but my job is to vote what I think is

best for the community and I feel like this Bill will not work. If it does pass, I hope it does work and I hope that it only addresses incessant barking. Thank you.

Mr. Chock: Any further discussion? I would just say that this is a human issue that we are dealing with and an issue of not our responsibility, but moving us closer to having an avenue to have discussion with our neighbors and that is really what has to happen. I want to thank Councilmember Yukimura for all of the hard work that she has done and Councilmember Rapozo for his latest amendment. I think it makes much clearer, distinction between roles and further, I would say that we create laws and we see how they work and we come back to the drawing board if we need to adjust it. So, I would like to suggest that we hear really soon how this works out for the community, and if we need to make adjustments, then we can do so accordingly. We need to be willing and able to make mistakes in order to get better. Roll call vote. Councilmember Yukimura.

Ms. Yukimura: Yes. Thank you all for all of your help in terms of gathering input and giving input. The Bill before us strikes a balance between giving a remedy to households where neighboring dogs are barking incessantly for no good reason and residents are unable to experience the quiet enjoyment of their own homes and on the other hand, protecting dog owners against unreasonable and baseless complaints. Those of us who worked on this Bill really understand Councilmember Kagawa's concerns because we tried hard to address those fears and I hope that as we work with the Bill and see how it works, we will prove the fears wrong and if we do not, as Councilmember Chock has said, we should be responsible to alter it and learn from whatever is not working as well as from whatever is working. The Bill focuses on assisting and supporting dog owners of incessantly barking dogs with information and practice by which to stop their dogs from barking. Then, in cases where dog owners are unwilling or unable to stop the barking, it does include remedies of potentially accumulating fines, but we did lower the levels as was recommended by one of the hunters who came to testify. It is necessary for the law to have some teeth or it is meaningless. I feel like there is lots of safeguards through the procedures and the amendments that have been made throughout the process. As we have discussed, the Kaua'i Humane Society is to be first responder and *mahalo* to Penny and to her staff who are willing to take this on. The Police are in a support position. The only requirement is that they refer complaints to the Kaua'i Humane Society and let the Kaua'i Humane Society know if they take any action themselves so that there is continuous record of what happened. Councilmembers, and thank you for your kind comments, have observed that there had not been as much contention as there has been in the past. I think that is because there has been a lot of people who have been willing to work on this and so I want to thank those people, first and foremost, Penny and the Kaua'i Humane Society, but also Chief Perry, Deputy Chief Contrades, Captain Quibilan, all of the officers who helped us craft the words and the provisions, the Office of Prosecuting Attorney, the members of the public on both sides who really stepped forward to give us input, the Hunter's Association and Ken Yamauchi who went through several drafts with his members, and Councilmembers. So, thank you all who have helped to shape the Bill and I also want to thank staff, especially Aida Okasaki who had just been incredibly helpful and responsive. At the beginning we had Ginger Grinpas who is no longer with us and Christiane Nakea-Tresler. So, for all of these people who have helped, I want to say thank you. As was noted, the County of Kaua'i is the only County without a law at this time. I think we have thought through this Bill as well as we can and so if we have overlooked anything, I am committed to adjust and amend based on experience that we get with this Bill. Thank you to all of you and I hope that this Bill will pass.

Mr. Chock: Thank you. Further discussion? Seeing none, Madame Clerk, can we have a roll call?

The motion to adopt Bill No. 2516, Draft 2 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Rapozo	
	Yukimura	TOTAL – 5,
AGAINST ADOPTION:	Kagawa	TOTAL – 1,
EXCUSED & NOT VOTING:	Furfaro	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: 5:1.

Mr. Chock: 5:1, Bill passes. Next item, please.

(Ms. Yukimura was noted as excused.)

Bill No. 2520, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES: Mr. Bynum moved to adopt Bill No. 2520, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: Any public testimony on this item? Seeing none, discussion Councilmembers? No discussion it?

Mr. Bynum: I will just say that for all of the upcoming Bills, these are Bills that we are required to do in Finance to put the money in the right place to meet our Collective Bargaining agreements. Because our budgets are really tight we have a lot of these kind of housekeeping Bills, but this also funds employee raises that were committed to, which many of our employees waited a very long time for increased compensation. I intent to support all of these Bills. They are pretty much housekeeping. So, I will just make that one (1) comment. Thank you.

Mr. Chock: Thank you. Other discussion? Seeing none, roll call vote on this as well.

The motion to adopt Bill No. 2520, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa,	
	Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Five (5)? Thank you. Next item, please.

Bill No. 2521 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE HOUSING & COMMUNITY DEVELOPMENT REVOLVING FUND (*Housing Agency Grant Funded Bargaining Unit 13 Increases – \$20,891*): Mr. Hooser moved to adopt Bill No. 2521 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Bynum.

Mr. Chock: It has been moved and seconded here. Any public testimony? Seeing none, discussion Councilmembers, on this Bill. Seeing none, roll call vote, please.

The motion to adopt Bill No. 2521 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Five (5) ayes. Thank you so much. Next item, please.

Bill No. 2522 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Fire Department Bargaining Unit 11 Increases – \$617,529*): Mr. Hooser moved to adopt Bill No. 2522 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Bynum.

Mr. Chock: Great. The motion is on the floor. Any public testimony? Al or Eddie? No? Discussion Councilmembers? Seeing none, roll call, please.

The motion to adopt Bill No. 2522 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Thank you. Next Bill.

Bill No. 2523 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Police Department Other Post Employment Benefits (OPEB) Replenishment Due to Bargaining Unit 12 Increases – \$987,606*): Mr. Bynum moved to adopt Bill No. 2523 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: Motion is on the table. No public comment?
Seeing none, further discussion? None there. Roll call vote, please.

The motion to adopt Bill No. 2523 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Bill passes. Number 7, please.

Bill No. 2524 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Committed Reserve Fund Replenishment Due to Bargaining Unit 12 Increases – \$561,864*): Mr. Bynum moved to adopt Bill No. 2524 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: There is no public testimony.
Councilmembers, any discussion on this item? Seeing none, roll call vote, please.

The motion to adopt Bill No. 2524 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Bill No. 2525 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL

YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Committed Reserve Fund Replenishment Due to Bargaining Unit 13 Increases – \$197,072*): Mr. Bynum moved to adopt Bill No. 2525 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: No public comment or testimony here.
Further discussion, members? Roll call vote, please.

The motion to adopt Bill No. 2525 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Bill No. 2526 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*General Fund Other Post Employment Benefits (OPEB) Replenishment Due to Bargaining Unit 13 Increases – \$ 295,422*): Mr. Bynum moved to adopt Bill No. 2526 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: No public comment or testimony. Any discussion, members? Roll call vote for this one.

The motion to adopt Bill No. 2526 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Bill No. 2527 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Department of Parks and Recreation, Parks Maintenance Septic System Pumping – \$200,000*): Mr. Bynum moved to adopt Bill No. 2527 on second and final reading, and that is be transmitted to the Mayor for his approval, seconded by Mr. Hooser.

Mr. Chock: Motion to approve. No public comment or testimony here. Any discussion? Please.

Mr. Bynum: Yes, just to distinguish. This particular Bill is not about employee benefits. It is about parks maintenance septic system costs that we need to cover, but I am in support. I just wanted to make that distinction.

Mr. Chock: Thank you. I want to thank Larry for his presentation also on this. Any further discussion on this item before we call for a vote? Seeing none, roll call vote. Thank you.

The motion to adopt Bill No. 2527 on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chock, Hooser, Kagawa,	TOTAL - 5,
	Rapozo	TOTAL - 0,
AGAINST ADOPTION:	None	TOTAL - 2,
EXCUSED & NOT VOTING:	Yukimura, Furfaro	TOTAL - 0.
RECUSED & NOT VOTING:	None	

Ms. Fountain-Tanigawa: Five (5) ayes.

Mr. Chock: Did we do number 11 already?

Ms. Fountain-Tanigawa: Yes.

Mr. Chock: So, is that everything?

Ms. Fountain-Tanigawa: That concludes our business today.

Mr. Chock: Thank you, members. Councilmember Hooser, closing statement here.

Mr. Hooser: No. The item that we discussed where Finance was going to come back at 4:00 p.m., did we dispose of that item?

Mr. Bynum: It got deferred to...

Mr. Chock: It got deferred.

Mr. Hooser: Okay, thank you.

Mr. Kagawa: To Committee.

Mr. Bynum: Oh, I am sorry. That is right. We referred it to Committee, right?

Mr. Hooser: That is right.

Mr. Bynum: So, it will be next week.

Mr. Hooser: Okay.

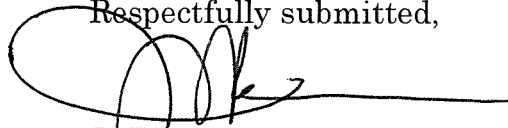
Mr. Chock:
members.

We will adjourn this meeting. Thank you,

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 6:50 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by several loops and a long horizontal stroke extending to the right.

JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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